THE JOURNAL OF

LIBERTARIAN STUDIES

AN INTERDISCIPLINARY REVIEW

Gary M. Anderson
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Book Reviews

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Volume 13, Number 1, Summer 1997

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ADAM SMITH, JUSTICE, AND THE SYSTEM OF NATURAL LIBERTY

Gary M. Anderson*

Murray Rothbard dismisses Adam Smith's contribution to economics as "dubious," and he lists many specific Smithian lapses. For instance, Smith abandons the subjective theory of value, and maintains that only material commodities constitute production or value; he has "no conception of the entrepreneur or of the function of entrepreneurship"; he excuses collective bargaining, implicitly justifying union cartels; and he even provides part of the foundation for Karl Marx's confused labor theory of value.[1]

Rothbard also rebukes Smith for failing to consistently uphold free-market principles. Smith defended usury restrictions, supported standing government armies, advocated the "strategic" use of protectionism, called for tax-financed education, and much more. In short, there is ample evidence that Smith was an inconsistent defender of liberty, at best.[2]

But in defense of Smith, the author of the *Wealth of Nations*[3] did show, on occasion, that he was willing and able to follow his laissez-faire principles to their logical conclusion. For example, take his vigorous attack on medical licensure, in which he boldly advocates a completely free market in higher edu-

*Gary M. Anderson is Professor of Economics at California State University, Northridge.

[1]Murray N. Rothbard, *An Austrian Perspective on the History of Economic Thought*, 2 vols. (Brookfield, Vermont: Edward Elgar, 1995), vol. 1, p. 435; vol. 1, p. 448; vol. 2, pp. 430, 284, and 409. Jeffrey Herbener and Mark Thornton, "Adam Smith, Monetary Crank and Inflationist: A Rothbardian Perspective on the Founder of Economics" (paper presented at the Durrell Monetary Conference, Shendoah University, Winchester, Virg., October 1995), p. 6, add that among these other flaws, Smith was a monetary crank and a pragmatic inflationist.

[2]According to Rothbard, *An Austrian Perspective*, **vol. 2,** p. 3, the earlier writers Cantillon and Turgot had been far superior to Smith "both as technical economic analysts and as champions of laissez-faire." The classic account of Smith's many inconsistencies is Jacob Viner, "Adam Smith and Laissez-faire," *Journal of Political Economy* 35 (April 1927): 198–232, who apparently intended to defend Smith against the charge of having been an "extremist in the defense of liberty."

[3]Adam Smith, *An Inquiry in the Nature and Causes of the Wealth of Nations*, R.H. Campbell, A.S. Skinner, and W.B. Todd, eds. (Indianapolis, Ind.: Liberty Press [1776] 1981).

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cation.[4] Similarly, he advocates the elimination of state interference in the market for religious services.[5] Thus, Smith was capable of rigorous consistency in the application of his free market principles, at least on certain issues, regardless of his frequent bouts of inconsistency.

Unfortunately, Smith's consistent application of laissez faire broke down in relation to one especially critical topic, at least if the orthodox interpretation of Smithian doctrine is to be believed. This concerns the provision of law and order. Modern historians of economic thought generally agree that Smith believed that the state must establish a system of justice before commerce can proceed. According to Jacob Viner, Adam Smith "recognized that the economic order . . . was marked by serious conflicts between private interests and the interests of the general public," and that the monopoly provision of justice was a prime example of "government interference with private interests" that promoted the general welfare.[6] More recent writers generally agree.[7] Thus, the conventional wisdom adds one more example to Rothbard's case against Smith, although these mainstream historians of thought applaud this particular Smithian inconsistency.

However, Viner and company have misread Smith on this score. A close reading of Smith reveals a different, and radical, thesis: the law emerges independently of government. While governments normally monopolize the provision of law enforcement and courts in the course of economic development, judicial services evolved historically through voluntary commercial transactions. Furthermore, the monopolization of judicial services by government leads to serious problems, which market competition would tend to mitigate.

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[4]Unfortunately, this particular neat piece of analysis is contained in a letter (dated 20 September 1774), not in the *Wealth of Nations* or any other published tome. At least the letter is conveniently accessible; see *The Correspondence of Adam Smith*, Ernest C. Mossner and Ian S. Ross, eds., (Oxford: Clarendon Press, 1977), pp. 173–79.

[5]See David Levy, "Adam Smith's 'Natural Law' and Contractual Society," *Journal of the History of Ideas* 39 (October–December 1978): 665–74.

[6]Viner, "Adam Smith and Laissez-faire," p. 217.

[7]Cf. Edward S. Cohen, "Justice and Political Economy in Commercial Society: Adam Smith's 'Science of a Legislator'," *Journal of Politics* 51 (February 1989); Donald J. Devine, "Adam Smith and the Problem of Justice in Capitalist Society," *Journal of Legal Studies* 6 (June 1977); J. Ralph Lindgren, *The Social Philosophy of Adam Smith* (The Hague: Martinus Nijhoff, 1973); Edwin G. West, "Adam Smith's Economics of Politics," *History of Political Economy* 8 (Winter 1976); and Donald Winch, *Adam Smith's Politics: An Essay in Historiographic Revision* (Cambridge: Cambridge University Press, 1978).

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This is not meant to suggest that Smith was an anarcho-capitalist. He did not advocate a completely free market in the provision of justice, but he did argue that the market provision of justice services was feasible without prior government intervention, contrary to the statist conventional wisdom concerning this important problem. Smith was, indeed, a pragmatist, as Rothbard charges, and was mostly interested in improving the efficiency of government monopoly provision of justice, rather than challenging that monopoly *per se*. Smith carefully outlines the relationship between institutional incentives and judicial behavior, and argues how superior mechanisms of residual claimancy would improve judicial performance and increase output.

A DISTINCTION WITH A DIFFERENCE

Smith writes:

> The second duty of the sovereign, that of protecting, as far as possible, every member of the society from the injustice or oppression of every other member of it, or the duty of establishing an exact administration of justice, requires two very different degrees of expence in the different periods of society.[8]

Similarly, when Smith discusses the "system of natural liberty," he lists the "duty of establishing an exact administration of justice" as one of the three duties to which the sovereign's responsibility is limited.[9]

This passage might seem to suggest that the provision (and production) of justice must necessarily be undertaken by the state. In fact, this is the standard interpretation in the secondary literature.[10] But when we compare Smith's account of the "duty of the sovereign" to provide justice with the related discussion[11] of

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[8]Smith, *Wealth of Nations*, "Of the Expence of Justice," pp. 708–9. A similar statement is recorded in Adam Smith, "Report of 1762–3," in *Lectures on Jurisprudence*, R.L. Meek, D.D. Raphael, and P.G. Stein, eds. (Indianapolis, Ind.: Liberty Press, 1982), p. 6.

[9]Smith, *Wealth of Nations*, p. 687.

[10]Cohen, "Justice and Political Economy in Commercial Society," p. 50, summarizes Smith's view by claiming that "When properly guided by the legislator, [commerce yields] both justice and opulence." Edwin G. West, in "Adam Smith's Public Economics," *Canadian Journal of Economics* 10 (February 1977): 3, refers to the "Expence of Justice" discussion as concerning Smith's "division of the functions of the state." Devine, in "Adam Smith and the Problem of Justice in Capitalist Society," p. 405, refers to "the first great institution of capitalism" being "the three-functioned national state."

[11]Smith, *Wealth of Nations*, pp. 723–31.

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what we would today term "infrastructure," it is clear that he does not rule out the private provision of justice or of anything else. The "third and last duty of the sovereign," is to provide institutions and public works which, although they are beneficial to society as a whole,

> are . . . of such a nature, that the profit could never repay the expence to any individual or small number of individuals, and which it, therefore, cannot be expected that any individual or small number of individuals should erect or maintain.[12]

In other words, according to Smith, the question of whether or not government should provide particular public goods is an empirical issue. Rothbard would probably dismiss this position as yet another example of Smith's failure to take a principled moral stand in defense of liberty, but of course the same charge could be leveled at many other prominent libertarian thinkers, such as Milton Friedman.

He explains that transportation routes, including highways, bridges, and navigable canals might possibly be provided by the free market. He notes that in "several different parts of Europe" canals are, in fact, privately provided, and explains that profit-maximizing owners tend to operate those canals more effectively than public commissioners ("who had themselves no interest in them") would.[13] Tolls for the maintenance of high roads "cannot with any safety be made the property of private persons," because under-maintained roads (unlike canals) continue to generate toll revenues for their owners. Smith then proceeds to outline the predictable inefficiencies associated with public management.[14]

The factual context of Smith's analysis is important. Both the national road network (the "turnpikes") and the canal system in eighteenth-century England were authorized by Acts of Parliament, but entirely financed and operated by private enterprise.[15] Turnpikes were operated by private trusts, and canals were usually organized as joint-stock companies. Both limited access to toll-paying customers; in neither case were the tolls the property of private persons, but instead the property of the un-

[12]Smith, *Wealth of Nations*, p. 723.

[13]Smith, *Wealth of Nations*, pp. 724–26.

[14]Smith, *Wealth of Nations*, pp. 729–30.

[15]In the context of the 1720 "Bubble Act" that imposed restrictions on joint-stock enterprise, express Parliamentary authorization substantially lowered the cost of capital to investors in such undertakings. See Paul Langford, *A Polite and Commercial People: England 1727–1783* (Oxford: Clarendon Press, 1989).

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dertaking organizations.[16] Smith was surely aware that one of the parts of Europe with privatized infrastructure was England herself.

Smith's repeated reference to "the sovereign" may sound statist, but does not really betray such a sympathy. Elsewhere in *Wealth of Nations*, the King is consistently portrayed as a simple wealth maximizer who constantly seeks to expand the domain of his power (and his revenue) while defending his position and rents from external and internal threats. Kings and their ministers are the greatest spendthrifts in the country,[17] and devote themselves to accumulating treasure and spending on luxuries for their personal enjoyment.[18] Monarchs often adulterate the coinage when their profligacy places them in arrears, despite the serious harm such coin-clipping (or revaluation) does to the country.[19] The sovereign is not portrayed as an idealized ruler engaged in the noble pursuit of improved social welfare, but rather as *Homo economicus* on the royal throne.

Smith's statement about the sovereign's "duty to establish an exact administration of justice" does not imply that a government monopoly of lawmaking and courts is necessary. In fact, government monopoly itself leads to a host of problems. Elsewhere, he engages in an analysis of these practical difficulties and suggests reforms designed to increase the efficiency of government courts, taking the government monopoly as a given.[20] But Smith also argues that private markets can provide judicial services, at least under certain circumstances. We now turn to this important, but widely neglected, aspect of Smith.

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[16]See Langford, *A Polite and Commercial People*, pp. 391–417.

[17]Smith, *Wealth of Nations*, p. 346. In the preceding sentence, Smith writes:

> It is the highest impertinence and presumption, therefore, in kings and ministers, to pretend to watch over the oeconomy of private people, and to restrain their expence either by sumptuary laws, or by prohibiting the importation of foreign luxuries.

[18]Smith, *Wealth of Nations*, p. 908.

[19]Smith, *Wealth of Nations*, p. 932.

[20]An example of the latter is the famous statement in Smith, *Wealth of Nations*, p. 910, beginning

> Commerce and manufactures seldom flourish long in any state which does not enjoy a regular administration of justice . . . and in which the authority of the state is not supposed to be regularly employed in enforcing the payment of debts from all those who are able to pay.

In other words, assuming a state monopoly in the market for justice, economic efficiency requires that private contracts be effectively enforced.

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SMITH'S THEORY OF THE ORIGIN OF JUSTICE

Smith offers an evolutionary model of justice that explains how economic development leads to increasingly complex legal institutions. Justice is explained as the unintended outcome of purely voluntary transactions.

After private ownership begins to emerge, the need for justice and the orderly resolution of disputes arises. As property emerges, "the hatred of labour and the love of present ease and enjoyment" among the poor prompt them to invade property belonging to others. Avarice and ambition among the rich also motivate violation of ownership rights. But the greatest threat to private property comes from the poor who desire to appropriate wealth rather than laboring to produce their own. Smith asserts that "great property" is always associated with great inequality of wealth. For every rich man, there must be five hundred poor; "the affluence of the few supposes the indigence of the many."[21] Under such conditions, the rich man's property is in grave jeopardy.[22]

Throughout this discussion, "civil government" refers to the functional role of maintaining law and order, and does not strictly imply "the state." Provision of such services by way of a monopoly of coercion is only one possibility.

"Subordination," the voluntarily accepted sense of social rank, is antecedent to any civil order. There are four causes to subordination: superiority of personal qualifications, superiority of age, superiority of fortune, and superiority of birth. Birth and fortune are the two great sources of personal distinction, principally setting one man against another. These two sources of subordination both reflect wealth available to the individual (with "birth" standing for the wealth available to the person's family). Wealth generates influence, because in time of trouble, the weak naturally look to the strong for protection. As the economy evolves beyond the most primitive stages, the strong are those

[21]The "500-to-1" ratio is hyperbole, not a literal numerical relationship. Smith seems to mean "relative poverty" rather than "impoverishment" in the modern sense. Elsewhere in *Wealth of Nations*, he notes that "the very meanest person in a civilized country" enjoys an "accommodation" exceeding that of "many an African king," and further that the modern European peasant is closer in well-being to a European prince than the African king compares to his subjects, toward whom he is the "absolute master" (p. 24). Thus, development increases the wealth of the poorest citizens faster than it increases the wealth of the richest citizens, reducing the degree of inequality.

[22]Smith, *Wealth of Nations*, pp. 709–10.

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who command the most valuable resources, and not necessarily individuals possessing the greatest size or physical strength. In other words, overt respect for the powerful and wealthy is a kind of insurance policy for the weak and poor.

The emergence of tangible wealth, unequally distributed, generates the demand for the enforcement of property rights:

> Civil government, so far as it is instituted for the security of property, is in reality instituted for the defence of the rich against the poor, or of those who have some property against those who have none at all.[23]

Civil government emerges spontaneously from a social setting after tangible physical wealth has first accumulated. When property exists, individuals will from time to time come into conflict over the boundaries of their respective property rights. Such conflicts result in the demand for mediation.

It is at this stage that a "degree of authority and subordination"—and consequently, a system of justice—arises.

> Men of inferior wealth combine to defend those of superior wealth in the possession of their property, in order that men of superior wealth may combine to defend them in the possession of theirs.[24]

He refers to the "most powerful local man" as a "little sovereign."

This little sovereign is an authority in a strictly adjudicative sense. He resolves disputes among his inferiors. He does this because doing so is a source of revenue to him. Persons who apply to him for justice are always willing to pay for it, "and a present never failed to accompany a petition." Eventually, this arbitrator charges the individual found guilty an "amercement," or fine, over and above any "satisfaction . . . he was obliged to make."[25] The adjudicator supplies a legal resolution to a dispute, awards damages to the party found injured, and charges a fee for the service.

Justice originates in the market provision of dispute resolution, and "deterrence" of future crime plays no role in determining penalties; the system is oriented toward awarding compensation to the individual victim from the party found guilty. This market system of justice even accommodates the peaceful resolution of cases involving murder. Heirs are compensated by means of

[23]Smith, *Wealth of Nations*, p. 715.

[24]Smith, *Wealth of Nations*, p. 715.

[25]Smith, *Wealth of Nations*, pp. 715–16.

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fines imposed on the guilty in these cases as well. Smith offers a historical example. He explains that the barbarian German tribes seldom employed capital punishment, but relied on a system of fines.[26]

Smith does not advocate replacing capital punishment for murder with a system of graduated fines; in fact, he argues that in "every civilized nation death has been the punishment of the murtherer [sic]," with pecuniary compensation being accepted only in "barbarous countries."[27] But the system of market-determined judicial compensation arose prior to the existence of the state-imposed uniform punishments for equivalent crimes.[28]

The little sovereign, then, is merely the most respected, and influential, person in the community. This influence derives from his social accomplishments, e.g., his wealth, and fills a market niche. Therefore, the interaction between this person and those seeking his advice and judgment is a simple market trade. At this stage, the voluntary purchase of these services constitutes this individual's only source of revenue.[29]

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[26]Smith, "Report dated 1766," *Lectures on Jurisprudence*, pp. 476–77, goes into some detail about the "price of murder":

> A price was sett on every person according to his station. There was one price paid for killing the king, and another for killing a slave. The compensation was proportioned to the dignity of the person and of his relations. What was paid to the prince for interposition was increased and diminished in the same proportion. It was a higher fine to kill a man belonging to a lord than one belonging to a little baron. To disturb the king's peace subjected to a greater fine than to disturb the peace of a baron or lord.

Refusal to pay the allotted fine resulted in the perpetrator being turned over to the victim's relatives, a harsh sanction: "If the injurer refused to pay the compensation he was left to the resentment of the injured, and if he was not able to pay it, he was obliged to implore the assistance of his friends."

[27]Smith, "Report dated 1766," p. 476. In the immediately following sentence, he says that the fines imposed were "not adequate to the offence," but does not explain what he means by "adequate."

[28]Smith's account of justice among the ancient Germans, including the status-related scale of compensation, seems to be generally accurate. On this, see A.S. Diamond, *The Evolution of Law and Order* (Westport, Conn: Greenwood Press, 1975), pp. 150–53. Smith's primary source for his information appears to have been Tacitus, whose *Germania* (a study of the customs of the Germanic tribes in the third century A.D.) receives seven separate cites in Smith, "Report of 1762–3." Other works by Tacitus receive an additional seven cites in the lecture course.

[29]Smith, *Wealth of Nations*, p. 718. Smith does not suggest that the little sovereign erects coercive entry barriers designed to provide himself with protection against competition, although that personage is described in a manner suggesting a local monopolist. The possibility that members of the community might "vote with their feet" for a different, nearby little sovereign is not addressed by Smith.

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Like the butcher, the brewer, and the baker in Smith's famous example from the *Wealth of Nations*,[30] the little sovereign is motivated by the desire to earn a profit by supplying judicial services. But like other private traders, the little sovereign (judge) can only earn that profit through voluntary transactions with consumers. Only by providing effective service to consumers can the judge expect to retain his market share.

As anthropology, Smith's account is basically accurate. Posner explain that in primitive cultures, the enforcement of law is almost entirely a privately provided activity (as was the case in many ancient societies), and that law enforcement in England followed the Becker-Stigler pattern (i.e., being a service marketed to consumers) "for centuries."[31] Smith uses this historical account to frame his economic model of the emergence of justice as the outcome of private market exchanges. The emergence of a system of justice does not require the pre-existence of government. In fact, Smith argued the other way around: a system of justice tended to lead to the emergence of government.

THE TRANSITION TO COERCIVE MONOPOLY

Smith explains that the most powerful local sovereign eventually acts coercively to exclude competitors in order to extract monopoly rent:

> [A]s long as the emoluments of justice, or what may be called the fees of court, constituted in this manner the whole ordinary revenue which the sovereign derived from his sovereignty, it could not well be expected . . . that he should give them up altogether. It might, and it frequently was proposed, that he should regulate and ascertain them. But after they had been so regulated and ascertained, how to hinder a person who was all-powerful from extending them beyond those regulations, was still very difficult, not to say impossible. During the continuance of this state of things, therefore, the corruption of justice, naturally resulting from the arbitrary and uncertain nature of those presents, scarce admitted of any effectual remedy.[32]

To paraphrase Smith, the strongest man in the community first becomes accepted as the arbiter of disputes, and the sole source of accepted law. But this places that person in a strategic

[30]Smith, *Wealth of Nations*, p. 27.

[31]Richard Posner, *Economic Analysis of Law* (Boston: Little, Brown, 1986), pp. 559–60; Gary S. Becker and George Stigler, "Law Enforcement, Malfeasance, and Compensation of Enforcers," *Journal of Legal Studies* 3 (January 1974): 1–18.

[32]Smith, *Wealth of Nations*, p. 718.

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position which allows him to gradually extend his authority beyond the resolution of disputes brought before him, and to pass judgments designed to reinforce his own power and wealth. The respected arbitrator becomes the feared governor, and eventually the state emerges from what modern economists would term a "rent-seeking" process. Smith also claims that the eventual usurpation of justice by monopoly government leads to the "corruption of justice."[33]

The little sovereign eventually tends to delegate the actual judicial decision-making to employees, allowing him to allocate his own time and energies to other matters. The coercive monopoly over justice eventually comes to be managed by multiple judges who act as the agents of the monarch. Appropriating the resulting revenue "seems to have been one of the principal advantages" obtained by the sovereign from the administration of justice.[34]

Thus, the "natural" local monopoly of judicial services leads to a broader monopoly of coercion in society—the state. But this monopoly of coercion is not a necessary condition for the provision of judicial services. Rather than the provision of judicial services first requiring a state to emerge, in fact, the state develops out of the judicial services firm that itself arises through purely voluntary transactions with consumers.

What is particularly interesting is the absence of Pigouvian reasoning in explaining this situation. The transition from a profit-maximizing local monopoly firm to a monopoly of coercion is not portrayed as a solution to the failure of the private market to provide justice. Instead, the monopolization by the state leads to a corruption of justice. [We will return to this theme below].

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[33]Smith's account of how the state emerges from anarchy bears some resemblance to Robert Nozick's model of the origin of the minimal state. Nozick maintains that a process of free competition between providers of defense services will naturally tend to result in the emergence of a "monopoly of coercion," that could nevertheless be kept limited to only essential duties associated with protecting the natural rights of private parties. See Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974). Here is where Smith differs from Nozick: Smith argues that once the state emerges, it tends to grow beyond what the simple definition and enforcement of private property rights would require. In other words, Smith offers a closer approximation to the anarchist critique of the state as a fundamentally oppressive entity than does Nozick. For a detailed refutation of the basic "natural monopoly" argument held by both Smith and Nozick (i.e., that the free competition between private defense agencies inevitably leads to the emergence of the state), see Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982), pp. 229–48.

[34]Smith, *Wealth of Nations*, p. 716.

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In the early stages of economic development, justice is provided by a kind of voluntary association, or club.[35] However, such an "arbitration club" is inadequate to protect liberty and property as the economy grows, since the decisions of the arbiter are non-binding. Eventually, the community agrees to appoint judges who have the power to render binding decisions about disputes.[36]

Smith sees the original purpose of laws as instituted to protect society from the depredations of judges, that is, as a kind of constraint. The "thing which has given occasion to the establishment of laws has always been the general or partial institution of judges."[37] He continues:

> At the first establishment of judges there are no laws; every one trusts to the naturall feeling of justice he has in his own breast and expects to find in others. Were laws to be established in the beginnings of society prior to the judges, they would then be a restraint upon liberty, but when established after them they extent and secure [it], as they do not ascertain or restrain the actions of private persons so much as the power and conduct of the judge over the people.[38]

Thus, government and laws emerge in part as a form of constraint on judicial malfeasance. In consequence, judges become agents of the state, and are no longer servants of their consumers in a private market.

This institutional change alters the qualitative characteristics of justice services. The punishment of criminals replaces the compensation of victims as the chief goal of the judicial process. Judges now prosecute criminals as threats to state revenues and power. At the same time, the judiciary allocates an increasing proportion of its resources to prosecuting acts which do not actually involve violations of individual property rights, offenses such as treason, "all conspiracies against the state," and desertion from the military.[39] In other words, the individual consumer in the market for justice is provided with inferior service by the

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[35]As Smith explains in his "Report of 1762–3," p. 313:

> Tho one was ready to stand by the sentence of an arbiter chosen perhaps out of the whole body of the people, as the heads of families, yet they would be altogether unwilling they should lay down laws for their conduct. He has no notion of any one having this power over him. No more than a member of a club will submit himself to the rules they may lay down, no more would a savage when he agrees to be a member of a society [would] think that he was bound to obey all their regulations.

[36]Smith, "Report of 1762–3," pp. 312–13.

[37]Smith, "Report of 1762–3," p. 313.

[38]Smith, "Report of 1762–3," p. 314.

[39]Smith, "Report of 1762–3," p. 130.

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state monopoly, because state justice looks after state interests in addition to adjudicating private disputes.

A curious omission is the absence of any discussion of policing.[40] Given the modern interest in the economics of crime and law enforcement, this absence is striking. However, modern-type municipal police forces were not formed in Britain until the mid-nineteenth century, and then existed only in London until late in the century. In the countryside, local magistrates "were responsible for appointing local officers, such as constables," who constituted the law enforcement community of the time, such as it was.[41] But most criminal cases were actually brought before judges by private parties, typically the alleged victims of the crime. In other words, in Smith's day, police work was basically private.[42]

THE BEST JUDGES MONEY CAN BUY

Employing the administration of justice as a revenue-raising device produced "several very gross abuses." The higher bidder in a dispute could expect "more justice."

> The person, who applied for justice with a large present in his hand, was likely to get something more than justice; while he, who applied for it with a small one, was likely to get something less.[43]

For example, justice might be delayed in order that "this present [i.e., bribe] might be repeated." The amercement from the individual found guilty may even provide an incentive to convict the accused in order to generate the amercement. Such abuses are alleged to have been common in the past, and the ancient history of every country in Europe demonstrates that such abuses "were far from being uncommon."[44]

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[40]Actually, while Smith occasionally uses the term "police" (e.g., throughout the *Theory of Moral Sentiments*, and at various places in the *Wealth of Nations*), he usually means "regulation."

[41]Clive Emsley, *Policing and its Context, 1750–1870* (New York: Schocken Books, 1984), p. 23.

[42]Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987), p. 72, explains that in the seventeenth century,

> Either the victim, or the victim's relatives or neighbors, organized the detective work to identify the proper suspect. Relatives and neighbors rather than legal officers assisted with the investigation; they also served later as witnesses. . . . As long as private individuals were willing to participate in the process of detection, the arrangement was both reasonable and, within limits, reasonably effective.

[43]Smith, *Wealth of Nations*, p. 716.

[44]Smith, *Wealth of Nations*, p. 717.

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Smith argues that the administration of justice is always extremely corrupt in countries where justice is a government monopoly, and where justice is a source of revenue. With the growth of taxation, most countries "abolished bribery" in the administration of justice. Judges were paid "fixed salaries," and justice was said to be administered "gratis." In reality, the "bribes" formerly paid to judges now go to lawyers, and the expenses have actually increased. But judicial corruption was the problem which fixed salaries were designed to reduce. Nowadays, the total expense of justice is a "very inconsiderable part of the whole expence of government."[45]

However, this institutional change has created another problem. Judges now have an incentive to behave opportunistically by shirking on their duties, because their pay is not a direct function of the number of cases they hear.

Smith maintains that reforms in the reward structure confronting judges might solve this problem, without reintroducing perverse incentives to judicial malfeasance. The whole expense of court might easily be defrayed by the fees of court. Assuming that the fees were collected by officers of the court independent of judges, there was no real hazard of corruption.

Smith assumes that it would be possible to arrange the fee-collection system so that government judges have no role in setting their own fees. The major component in this reform is establishing a standard structure of fees for different kinds of cases, irrespective of the actual decision the judge hands down. Also, the fees would not actually be payable until the case had been decided, so there "might be some incitement to the diligence of the court in examining and deciding it." In courts consisting of several judges, the share of fees for each might be proportioned to the actual number of hours or days that judge had "employed in examining the process, either in court or in a committee by order of the court," and this arrangement would also tend to reward judicial diligence.[46]

Thus, judicial pay can be linked to output:

> Publick services are never better performed than when their reward comes only in consequence of their being performed and is proportioned to the diligence employed in performing them.[47]

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[45]Smith, *Wealth of Nations*, p. 717.

[46]Smith, *Wealth of Nations*, p. 719.

[47]Smith, *Wealth of Nations*, p. 719. On pp. 758–64, he offers a similar argument about linking pay and performance in the case of university professors.

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A carefully designed system of residual claimancy can reward diligence, while at the same time eliminating incentives for perverse judicial behavior.[48]

He proposes a stamp-duty upon the law proceedings of each court, to be levied by that court. This would involve charging fees based on the length of court deliberations, or some other metric for determining the cost of service in a particular case. However, he notes that one difficulty with such a scheme is that courts will then have an incentive to multiply unnecessarily the proceedings in order to obtain increased stamp-duties.[49]

Regardless of exactly how the administration of justice is paid for, it should be possible to set that payment up so as to remove the executive power from any involvement in paying judges.

He suggests that the fund might come from the rent of landed estates, the management of each estate being entrusted to the particular court that was to be maintained by it. Alternatively, the court might be maintained out of an endowment which was left to the court to administer. Smith claims that a system designed along these lines already existed in eighteenth-century Scotland.[50]

COMPETITION AND COURTS

Smith noted that although government usually monopolizes the provision of justice, and prohibits private courts, at times the various separate governmental courts have continued to compete with each other. Hence, the state monopoly over the judiciary has sometimes operated in practice as a kind of imperfectly enforced cartel. This competition had important implications for the quality of services provided by those courts.

Smith pays close attention to an example of this intercourt competition drawn from English history. Fees of court were originally the principal support of the different courts of justice. Revenue-maximizing courts competed with each other to attract

[48]Smith notes that France employs a version of such a system to supplement the pay of judges. Called "Epices and vacations," this amounts to merit pay for diligent judges. For more on this, see Smith, *Wealth of Nations*, p. 720.

[49]Smith, in *Wealth of Nations*, p. 721, writes:

> In Europe, the payment of attorneys and clerks of court are based on the number of pages they write. The attorneys have contrived to multiply words beyond all necessity, in order to increase their payment.

[50]Smith, *Wealth of Nations*, p. 722.

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litigants, and were

> willing to take cognizance of many suits which were not originally intended to fall under [their] jurisdiction . . . each court endeavored, by superior dispatch and impartiality, to draw to itself as many cases as it could. The present admirable constitution of the courts of justice of England was, perhaps, originally in a great measure, formed by this emulation, which antiently took place between their respective judges; each judge endeavoring to give, in his own court, the speediest and most effectual remedy, which the law would admit, for every sort of injustice.[51]

Surprisingly, given Smith's intense interest in the process of competition and its effects, this argument is only briefly expounded in the *Wealth of Nations*. However, Smith considered this competition in more detail in his *Lectures on Jurisprudence*. For example, in the "Report of 1762–3" he offers several specific illustrations of improvements in judicial service which resulted from such "rivalship." Competition between the Court of Kings Bench and the Court of Common Pleas led the former to begin hearing civil as well as criminal cases. The Court of the Exchequer at first only heard cases involving debts owed to the King, but gradually entered the market for civil debt cases by use of a writ of *quominus et precipimus* (that allowed the court to define the civil debt as indirectly related to the King's interests). This competition was motivated by the pursuit of profit on the part of the separate courts:

> The profits of these courts depended chiefly on dues from the severall causes they tried, what we call in this country sentence money; from them also the clerks and notaries derived their fees. As the whole profits of the courts thus depended on the numbers of civill causes which came before them, they would all naturally endeavour to invite every one to lay his cause before their court, by the precision, accuracy, and expedition (where agreeable) of their proceedings, which emulation made a still greater care and exactness of the judges.[52]

He continues, explaining how the Court of Chancery gradually emerged from the office of Chancellor (who originally was just the keeper of the King's Great Seal, and the secretary of state for all royal departments) through a process of seeking greater revenues from hearing cases.[53]

[51]Smith, *Wealth of Nations*, p. 720.

[52]Smith, "Report of 1762–3," p. 281.

[53]Smith, "Report of 1762–3," p. 282. Smith fails to mention the Law Merchant, a body of non-governmental law and judges that emerged in the middle ages and resolved commercial disputes into the early 1600s. These courts freely competed

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During the middle ages in Europe, there was a huge and complex system of courts and law entirely independent of governments and feudal lords: the ecclesiastical courts, which enforced the Catholic Church Canon Law.

Smith explains that the ecclesiastical courts were the first to recognize the legally binding nature of contracts, and that this protection of individual rights led to veneration of—and increased litigation business in—those courts. This competition with the Royal courts forced the latter to provide better quality services to consumers:

> The civill law of the country was at that time very imperfect, and the cannon or ecclesiasticall law, tho far from perfect, was much preferable to the other; and it was by this the clergy were directed. Their judgments would therefore be most equitable. The whole right of testamentary succession proceeded from them, as well as the obligation of contracts. They were [the] only obstacle that stood in the way of the nobles; the only thing which made them keep some tollerable decency and moderation to their inferiors.[54]

In other words, the government courts were forced to begin recognizing, and protecting, contractual rights due to competition for legal customers from the Church courts. Particularly interesting is Smith's argument to the effect that consumer loyalty to the Church courts had little to do with religiosity, but was basically the result of perceived superior quality of service they provided.

The favorable reference to the Canon Law is surprising when compared to the harsh criticism Smith offers of the Catholic Church in the *Wealth of Nations*.[55] Smith's account of the role of the ecclesiastical courts during the middle ages is consistent with studies by modern legal historians.[56]

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with the common-law courts, until the latter courts began to refuse to accept merchant-law judgments as binding in 1606. See Bruce L. Benson, *The Enterprise of Law: Justice without the State* (San Francisco: Pacific Research Institute for Public Policy, 1990), p. 61.

[54]Smith, "Report of 1762–3," p. 90. However, Smith qualifies this favorable account of the Canon Law. In the following passage, he writes:

> Thus an ecclesiasticall court, which in a country where the regulations of the civil government are arrivd to a considerable perfection is one of the greatest nuisances imaginable, may be of very great benefit in a state where the civil government is baddly regulated.

[55]See Gary M. Anderson, "Mr. Smith and the Preachers: The Economics of Religion on the *Wealth of Nations*," *Journal of Political Economy* 96 (October 1988): 1066–88.

[56]See Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Mass.: Harvard University Press, 1983); William Holdsworth, *A History of English Law* (London: Methuen, 1956), vol. 1; and Robert E. Rodes, Jr., *Ecclesiastical Administration in Medieval England* (Notre Dame, Ind.: University of

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However, Smith noted that unrestricted competition between courts implied what modern economists would term a problem of the commons. He declares that "new courts and new laws are . . . great evils."[57] The reason is that new courts may fail to follow establish precedents, and make "loose and inaccurate" decisions. These loose decisions enter the body of legal precedent, and reduce its reliability.

But the new courts which caused Smith concern were the new courts established by the King to evade existing laws. These new courts were not voluntary market phenomena, but creatures of the state. The power of the King made their legal rulings binding precedent, regardless of the evaluation by consumers of the quality of those decisions. After all, new courts could not "pollute" existing precedent unless they enjoyed legal monopoly status, at least within a certain geographic or subject-matter jurisdiction.

As an example of this kind of political pollution, Smith mentions Henry VIII's establishment of the Court of the Star Chamber, which ignored legal precedent in the common law, and allowed the King to evade established courts.[58]

The Viner thesis fails to reconcile Smith's supposed presumption of the necessity for government monopoly of justice with his carefully stated concern about the likely domination of such a the judiciary by the politicians currently in power.

Separation of judicial from executive authority arises following the increasing extent of the division of labor as the economy developed. While at first the monarch monopolizes the judicial services personally, eventually he delegates this authority to someone else. Where the judicial and executive are not separated, "it is scarce possible that justice should not frequently be sacrificed to, what is vulgarly called, politics."[59]

Notre Dame Press, 1977). Smith also argues that the clergy assisted in the recognition of contractual rights (breaking a contract was a sin), influenced the secular courts to eventually distinguish between murder and manslaughter, and played an important role in the abolition of slavery in Europe. See Knud Haakonssen, *The Science of a Legislator: The Natural Jurisprudence of David Hume and Adam Smith* (Cambridge: Cambridge University Press, 1989), pp. 74–77.

[57]Smith, "Report of 1762–3," pp. 286–87.

[58]Smith, "Report of 1762–3," p. 95. Smith probably oversimplifies the legal history in this case. Holdsworth, *A History of English Law*, vol. 1, pp. 498–508, argues to the contrary that the Court of the Star Chamber was originally a provider of improved legal services which respected existing precedent, and permitted private litigants to avoid the relatively corrupt existing Royal courts. On. pp. 514–15, he argues that the Star Chamber only began to behave as the extralegal agent of the King during the reign of the Stuart James I.

[59]Smith, *Wealth of Nation*, p. 722.

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Politicians will sometimes find it expedient to sacrifice the rights of the common man. In consequence, the judge should not be removable at the "caprice" of politicians, nor should his salary be subject to political discretion.[60]

Paying judges out of public revenue leads to shirking problems when the link between judicial pay and judicial output is weak, in addition to granting politicians undue power over judicial decisions. Smith argues that justice would be better provided by replacing these subsidies from tax revenues with a system of user fees. Such a system of financing the judiciary would not have required the monopolization of judicial services under the control of government.

Still, Smith might have argued that government monopoly of justice is necessary for various other reasons unrelated to the problem of judicial remuneration. He did not do so. His account of the negative externalities generated by new courts was about new government courts which enjoyed the support of state coercion. In short, governmental provision and production of justice provides no advantages over private provision, and moreover leads to severe problems which reduce the quality of justice provided. His repeated assumption that the state was, in fact, the monopoly supplier of justice services was not a normative prescription, but just a positive assessment: such governmental monopoly is predictable given a revenue-maximizing leviathan.

JUSTICE AS A PRIVATE GOOD

The mainstream public economics literature tends to view justice as a pure public good, and the secondary literature on Smith bases much of its interpretation of his views on justice on this assumption. Smith was more interested in specific judicial decisions resulting from the efforts of particular rational individuals to resolve disputes at low cost.[61] Smith thought that justice was simply a kind of ordinary, private good. In *Wealth of Nations*, book 5, after acknowledging that the administration of justice provides some benefits to society as a whole, he continues:

> The persons . . . who give occasion to this expence are those who, by their injustice in one way or another, make it necessary to seek redress or protection from the courts of justice. The persons again most immediately benefitted by this expence, are those whom the courts of justice either restore to

[60]Smith, *Wealth of Nations*, p. 723.

[61]This point has been noted previously by Andrew S. Skinner, *A System of Social Science: Papers Relating to Adam Smith* (Oxford: Clarendon Press, 1979), p. 212.

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> their rights, or maintain in their rights. The expence of the administration of justice . . . may very properly be defrayed by the particular contribution of one or other, or both of those two different sets of persons . . . by the fees of court. It cannot be necessary to have recourse to the general contribution of the whole society, except for the conviction of those criminals who have not themselves any estate or fund sufficient for paying those fees.[62]

Therefore, governmental subsidies can and should be restricted to those specific aspects of the provision of justice which can be shown to involve problems of nonoptimal provision in a private market. He assumes that the existing court system is, in fact, a governmental monopoly, but does not claim that such a monopoly is a necessary solution to any problem of market failure. Smith did not actually advocate ending governmental provision of justice, but his position seems to have been consistent with his general presumption in favor of free-market competition.[63]

CONCLUSION

Murray Rothbard trenchantly critiques the many failures of Adam Smith both as an economist and as a defender of laissez faire. But Adam Smith nevertheless deserves credit for his fascinating analysis of the provision of justice that challenged the now-conventional assumption of the prior necessity of a state to provide law before the private marketplace can function. According to Smith, justice itself evolves as a market phenomenon, an unintended byproduct of the competitive process.[64]

[62]Smith, *Wealth of Nations*, p. 815.

[63]He is more explicit about arguing in favor of a true free market in the case of the provision of another kind of service with obvious "public good" characteristics: religion. In a famous passage later on in *The Wealth of Nations*, p. 793, Smith argues that free competition among religious sects was feasible, and would lead to optimal provision as well:

> [free competition] might in time probably reduce the doctrine of the greater part of them to that pure and rational religion, free from every mixture of absurdity, imposture, or fanaticism, such as wise men have in all ages of the world wished to see established.

He goes on to explains that his plan of ecclesiastical government (i.e., legal entry barriers) is more properly described as "no ecclesiastical government." On this, see Levy, "Adam Smith's 'Natural Law' and Contractual Society," p. 674. However, in his discussion of state-sponsored religion in the *Wealth of Nations*, p. 796, Smith seems to advocate the end of state subsidies to particular religions in a generally free, but regulated, market. The object of the regulations would be to "correct whatever was unsocial or disagreeably rigorous in the morals of all the little sects into which the country was divided."

[64]For defenses of a free-market system of justice by modern economists, see David Friedman, "Efficient Institutions and the Private Enforcement of Law," *Journal of*

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Further, throughout his writings on the provision of justice, Smith consistently models judges as rational, self-interested economic actors who respond in predictable ways to the incentives they face. Along the way, he develops the rudiments of a theory of economic agency in which self-monitoring by means of residual claimancy is presented as a low-cost method of controlling judicial malfeasance.

Many of the problems with the existing judiciary—shirking by judges, corruption, and political interference with courts—are explained by Smith as resulting from the monopolization of court services by government. Competitive private markets tend to eliminate these problems. Even in historical instances where private courts were eliminated, competition among different government courts still tends to improve the quality of judicial services.

Finally, most scholars have overlooked one of the most intriguing aspects of Smith's model of the market for justice—that such a market is feasible because justice is a kind of private good. To Smith, justice was a prerequisite, but not necessarily a governmentally-provided prerequisite, for commercial exchange.

While Smith deserves recognition for his insight into the economics of justice, he did not advocate a completely free market in the provision of justice services. This was, after all, the same Adam Smith who later became a Commissioner of Scottish Customs, and bragged about his ability to squeeze revenue from peaceful international trade.[65] Nevertheless, Smith implicitly admitted the possibility of free-market justice, and this itself was a radical insight.[66]

Legal Studies 13 (June 1984): 379–98; and by the same author, *The Machinery of Freedom* (La Salle, Ill.: Open Court, 1989); also see Murray N. Rothbard, *For a New Liberty: The Libertarian Manifesto* (New York: Collier Books, 1978).

[65]See Rothbard, *An Austrian Perspective*, vol.1, p. 469.

[66]As we have seen, much of Smith's discussion of the market provision of justice appears in his *Lectures on Jurisprudence*, delivered between 1762 and 1766, a decade before the *Wealth of Nations* appeared, and did not find its way into that *magnum opus*. This is consistent with Rothbard's observation that the quality of Smith's contribution to economic thought actually *deteriorated* over time. On this, see Rothbard, *An Austrian Perspective*, vol. 1, p. 436.

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THE POET AS ECONOMIST: SHELLEY'S CRITIQUE OF PAPER MONEY AND THE BRITISH NATIONAL DEBT

Paul A. Cantor*

> The real difference between Byron and Shelley is this: those who understand and love them rejoice that Byron died at thirty-six, because if he had lived he would have become a reactionary *bourgeois*; they grieve that Shelley died at twenty-nine, because he was essentially a revolutionist and he would always have been one of the advanced guard of socialism.
>
> — Karl Marx

I

Was Percy Shelley, the great English Romantic poet, a socialist? This may sound like an odd question, since, according to the *Oxford English Dictionary*, the word *socialist* was not even coined until 1833, that is, 11 years after Shelley died. Yet, despite the fact that Shelley could not have been aware of what we normally think of as socialist ideas, later socialists have claimed him for their lineage. Marx himself admired Shelley, and British socialists of the late nineteenth century looked back upon him as a kind of patron saint of their movement.[1] H.G. Wells, for example, rewrote Shelley's *Prome-*

* Paul Cantor is professor of English at the University of Virginia.

[1]This development was reflected in the history of the Shelley Society, founded in England in 1886, which was divided, broadly speaking, between those who championed the poet for literary reasons and those who championed him for political–economic reasons. The dispute centered on the status of Shelley's early poem, *Queen Mab*, which the first faction thought "should be relegated to Shelley's juvenilia," while the socialists in the society revered "*Queen Mab* as the bible of the new order." See Robert Metcalf Smith, *The Shelley Legend* (New York: Charles Scribner's Sons, 1945), p. 268. The dispute culminated in a speech by A. G. Ross, in which he chastised the socialist members of the society, charging that "the blatant and cruel socialism of the street" was trying to "use the lofty and sublime socialism of the study for its own base purposes." Coming to the defense of the socialist view of Shelley, George Bernard Shaw called this speech "the most astonishing one he had heard" (Smith, p. 271). But note that even Ross makes the concession that Shelley is in some sense a socialist. Michael Henry Scrivener, in his *Radical Shelley: The Philosophical Anarchism and Utopian Thought of Percy Bysshe Shelley* (Princeton, N.J.: Princeton University Press, 1982), p. 67, writes that "*Queen Mab* became a part of socialist culture" in Victorian England. For a detailed discussion of Shelley's

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theus Unbound in the form of a science fiction novel called *In the Day of the Comet*. Today, many Shelley scholars regard him as vaguely left wing in his politics, perhaps a proto-socialist, if not a full-fledged member of the movement.[2] In both his poetry and his prose, he is constantly championing the poor against the rich, and critics assume that this means that he would have been in favor of socialist policies, for example, of schemes for redistributing wealth. There is no question that by the standards of his day, Shelley was an economic and political radical, but what did "radicalism" mean in Shelley's day? Studying the case of Shelley gives us a chance to consider whether early nineteenth-century radicalism is to be identified with what we think of as a socialist position today.

Insofar as Shelley's poetry deals with political and economic issues, it is visionary and utopian, offering nightmare images of a world enslaved in the present, and dream images of a world liberated in the future. The very poetic quality of Shelley's vision makes it difficult to determine precisely his stance on concrete social issues. Thus, one text among all of Shelley's writings is central to any examination of his political and economic views, a prose treatise called *A Philosophical View of Reform*, by far his most sustained and systematic effort to develop an understanding of the problems facing England in the early nineteenth century. He wrote this extended essay early in 1820, in direct response to the political agitation in England in 1819 that culminated in the infamous Peterloo Massacre, agitation that seemed to augur the outbreak of violent revolution on the English scene. The essay has come down to us in unfinished form; it was never published in Shelley's lifetime. Indeed it was deemed so radical in

posthumous reputation among British and other socialists, see Paul Foot, *Red Shelley* (London: Sidgwick and Jackson, 1980), pp. 227–73.

[2]For a serious attempt to present Shelley as a forerunner of Marx, see Terence Allan Hoagwood, *Skepticism and Ideology: Shelley's Political Prose and Its Philosophical Context from Bacon to Marx* (Iowa City: University of Iowa Press, 1988), especially pp. 79–138. This work (p. 83) is the source for the Marx epigraph, which is ultimately taken from Franz Mehring's *Life of Marx*. For other discussions of Shelley as a socialist, see Eleanor Marx and Edward Aveling, *Shelley's Socialism* (Manchester, England: Leslie Praeger, [1888] 1947); Kenneth Neill Cameron, "Shelley and Marx," *Wordsworth Circle* 10 (1979): 234–39. In his *Red Shelley*, Foot presents the poet as a left-wing radical with many affinities to Marx, but ultimately concludes that "Shelley was not a socialist. Shelley was a leveller" (p. 96). Similarly, Scrivener argues that Shelley "anticipates . . . a number of radical tendencies, including the socialism of Marx," but he also sees a strong "libertarian" element in Shelley (*Radical Shelley*, p. 318), which ultimately leads him to conclude that the poet is best understood as a "philosophical anarchist." In *The Unacknowledged Legislator: Shelley and Politics* (Oxford: Clarendon Press, 1980), P.M.S. Dawson also places Shelley in the tradition of philosophical anarchism.

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content that it was not published until 1920.[3] As its title indicates, the essay contributes to the ongoing and heated debate in England during the nineteenth century concerning the issue of parliamentary reform, disputes that produced the famous series of Reform Bills progressively extending the voting franchise in England and thereby making its regime more democratic. Before this process began, Shelley offered a powerful argument for why it was not just desirable but also inevitable, claiming that only parliamentary reform could save England from the disaster of armed insurrection and civil war.

Despite Shelley's title, however, parliamentary reform is not the sole concern of his essay. In fact, Shelley presents political reform as necessary ultimately for the sake of economic reform.[4] He argues that the common people of England must seek to be more fully represented in Parliament in order to end the economic oppression they suffer at the hands of the rich and powerful. And what, according to Shelley, is the nature of this oppression? Does he complain about the emerging factory system and the new working conditions it imposed upon English laborers? Does he indict pollution, cut-throat competition, unemployment, dehumanizing mechanization, or any of the other supposed effects of the Industrial Revolution normally cited as having ruined the lives of the English working class in the early nineteenth century? The answer to all these questions is a surprising "no," surprising, that is, if one accepts the standard view of what the Romantics objected to in the economy of their day.

Shelley attacks only one target in *A Philosophical View of Reform*: the national debt of Great Britain. He holds the newly created system of deficit financing solely responsible for the economic woes of the English people. In particular, he condemns the British government's substitution of paper money for the precious metal currency that had prevailed in the country, a change that caused an inflation that improverished its citizenry. In short, in his one detailed attempt to grapple with the economic problems facing England, Shelley does not in socialist fashion call for increased government intervention in the market; on the contrary, he finds the root of England's problems precisely in a form of government intervention, namely, in manipulation of the currency in

[3]I quote *A Philosophical View of Reform* from the Julian edition, *The Complete Works of Percy Bysshe Shelley*, Roger Ingpen and Walter E. Peck, eds. (London: Ernest Benn, 1930), vol. 7. For the history of and problems with the text of the work, see vol. 7, pp. 332–33.

[4]On this point, see Gerald McNiece, *Shelley and the Revolutionary Idea* (Cambridge, Mass.: Harvard University Press, 1969), p. 84.

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particular and financial policies in general calculated to benefit the government and its cronies at the expense of the population as a whole. At least in *A Philosophical View of Reform*, Shelley's radicalism appears to be that of a free-market advocate and not that of a socialist.

II

Shelley's argument begins from the premise that a sound currency is the foundation of a sound economy. Gold and silver have traditionally provided this foundation, and the government's sole responsibility in this area is to certify the weights and measures of a metallic currency:

> The precious metals have been from the earliest records of civilization employed as the signs of labour and the titles to an unequal distribution of its produce. The [Government of] a country is necessarily entrusted with the affixing to certain portions of these metals a stamp, by which to mark their genuineness; no other is considered as current coin, nor can be a legal tender. The reason of this is that no alloyed coin should pass current, and thereby depreciate the genuine, and by augmenting the price of the articles which are the produce of labour defraud the holders of that which is genuine of the advantages legally belonging to them.[5]

From the beginning, Shelley views inflation as the chief economic problem. Increasing the amount of currency in circulation by debasing coinage increases the general level of prices, thereby depriving people of the amount of wealth to which their money originally entitled them.

Thus, for Shelley, when a government participates in inflationary manipulation of its own coinage, it abrogates its chief financial responsibility to its people:

> If the Government itself abuses the trust reposed in it to debase the coin, in order that it may derive advantage from the unlimited multiplication of the mark entitling the holder to command the labour and property of others, the gradations by which it sinks, as labour rises, to the level of their comparative values, produces public confusion and misery.[6]

As Shelley points out, debasing the coinage was a ruse well-known to governments in the ancient world, and, hence, one increasingly difficult to get away with in the modern. In the late seventeenth and early eighteenth centuries, the British govern-

[5]Shelley, *A Philosophical View of Reform*, pp. 25–26

[6]Shelley, *A Philosophical View of Reform*, p. 26.

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ment gradually developed the modern system of public finance, which Shelley regards as a massive and insidious scheme for defrauding the British people:

> At the epoch adverted to, the device of public credit was first systematically applied as an instrument of government. . . . The rich, no longer being able to rule by force, have invented this scheme that they may rule by fraud. . . . The most despotic governments of antiquity were strangers to this invention, which is a compendious method of extorting from the people far more than praetorian guards, and arbitrary tribunals . . . could ever wring. Neither the Persian monarchy nor the Roman empire, where the will of one person was acknowledged as unappealable law, ever extorted a twentieth part the proportion now extorted from the property and labour of the inhabitants of Great Britain.[7]

Shelley sees that the heart of the British government's new financial policy was the monetization of debt.[8] Once paper claims to gold and silver on deposit began to circulate and be accepted in place of the underlying precious metals, it became possible to substitute a paper currency for a metallic. For Shelley,

[7]Shelley, *A Philosophical View of Reform*, p. 25.

[8]One of Shelley's chief sources for his economic information, William Cobbett, does an excellent job of explaining this phenomenon, namely, how banknotes get into circulation. See Cobbett, *Paper Against Gold* (London: Cobbett, 1817), pp. 84–85. For the influence of Cobbett on Shelley's essay, see Kenneth Neill Cameron, "Shelley, Cobbett, and the National Debt," *Journal of English and Germanic Philology* 42 (1943): 197–209; McNiece, *Shelley*, pp. 84–87; and Patrick Brantlinger, *Fictions of State: Culture and Credit in Britain, 1694–1994* (Ithaca, N.Y.: Cornell University Press, 1996), pp. 114–16. Shelley refers his readers to *Paper Against Gold* in a bracketed passage in the manuscript of *A Philosophical View of Reform*, which Ingpen and Peck print in their notes (vol. 7, p. 338). Dawson (*Unacknowledged Legislator*, pp. 47–48) questions Shelley's knowledge of economics:

> He lacked however the conceptual equipment to analyse the economic structure of his society, and his distaste for the study of political economy condemned his utterances on the subject to remain on the level of a callow moralism.

Dawson (p. 49) blames Shelley's ignorance of economics specifically on his reliance on Cobbett:

> The writer on whom Shelley drew most deeply for his economic views was, unfortunately, William Cobbett. Cobbett's no-nonsense analysis of the economic structure of English society was clearly far more congenial to Shelley than the complexities of the political economists.

Dawson evidently prefers "nonsense" economics to "no-nonsense" economics. The "political economists" he refers to were the apologists for the Bank of England, many of them Directors of the Bank. In fact, Cobbett had no less a political economist than David Ricardo on his side of the argument, and events soon vindicated his understanding of the British banking system. Though Cobbett expressed his views with journalistic verve, they were, in fact, quite cogent and economically insightful, and *Paper Against Gold* can be profitably read to this day.

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this development began when the British government chartered the Bank of England in 1694.[9] This institution was created for the chief purpose of financing and managing the government's debt, which grew exponentially in the course of the eighteenth century, chiefly as a result of its wars on the Continent and in America. Bills of exchange that carried the official seal of the Bank of England encouraged people to accept paper instead of gold and silver as money. Shelley understood the enormous potential for abuse inherent in the new credit economy established and fostered by the British government:

> The modern scheme of public credit is a far subtler and more complicated contrivance of misrule. All great transactions of personal property in England are managed by signs and that is by the authority of the possessor expressed upon paper, thus representing in a compendious form his right to so much gold, which represents his right to so much labour. A man may write on a piece of paper what he pleases; he may say he is worth a thousand when he is not worth a hundred pounds. If he can make others believe this, he has credit for the sum to which his name is attached. And so long as this credit lasts, he can enjoy all the advantages which would arise out of the actual possession of the sum he is believed to possess. He can lend two hundred to this man and three to that other, and his bills, among those who believe that he possesses this sum, pass like money.[10]

This new financial system made it much easier for the government to inflate the currency:

> The existing government of England in substituting a currency of paper [for] one of gold has had no need to depreciate the currency by alloying the coin of the country; they have merely fabricated pieces of paper on which they promise to pay a certain sum.[11]

In short, Shelley understood the great magic trick the British government had managed to pull off in the course of the eighteenth century. It used the Bank of England and the money market institutions that grew up along with it to finance its increasing debts, and then monetized the debt, thereby performing the seeming miracle of turning debt into wealth. The whole scheme hinged on the government's unquestioned ability to meet

[9]For brief but good summaries of the development of banking and finance in eighteenth-century England, see Elie Halévy, *A History of the English People in 1815* (London: Routledge and Kegan Paul, [1924] 1987), pp. 296–323; and T.S. Ashton, *An Economic History of England: The Eighteenth Century* (London: Methuen, 1955), pp. 167–200.

[10]Shelley, *A Philosophical View of Reform*, p. 26.

[11]Shelley, *A Philosophical View of Reform*, p. 27.

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the interest payments on its loans, unquestioned because of its virtually unlimited authority to tax its people. Throughout the essay, Shelley complains bitterly about the excessive taxes imposed upon the British public to pay the interest on the ever-increasing national debt, interest payments that had reached the then-astronomical figure of £45,000,000 annually.[12] Shelley is already calling for a tax revolt:

> The taxgatherer ought to be compelled in every practicable instance to distrain, whilst the right to impose taxes . . . is formally contested by an overwhelming multitude of defendants before the courts of common law. Confound the subtlety of lawyers with the subtlety of the law.[13]

But as troubled as Shelley is by the open taxation of the British public, he is even more disturbed by the hidden tax they are forced to pay under the new financial system, what we today would call an inflation tax.[14] Confronted with the new system of public finance, Shelley is an unabashed monetarist; he has no doubt that the rise in the general level of prices in England is to be traced directly and solely to the increase in the quantity of money in circulation that resulted from the monetization of the enormous and ever-increasing national debt.[15] Shelley knows what happens in a paper currency economy when more money starts chasing fewer goods, rendering nominal increases in wages meaningless since prices increase just as fast or faster:

> Of course in the same proportion as bills of this sort, beyond the actual goods or gold and silver possessed by the drawer, pass current, they defraud those who have gold and silver and goods of the advantages legally attached to the possession of them, and they defraud the labourer and artizan of the advantage attached to increasing the nominal price of labour.[16]

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[12]Shelley, *A Philosophical View of Reform*, p. 40.

[13]Shelley, *A Philosophical View of Reform*, p. 51.

[14]In *Classical Economics*, vol. 2 of his *An Austrian Perspective on the History of Economic Thought* (Cheltenham, England: Edward Elgar, 1995), p. 182, Murray Rothbard points out that one of Shelley's contemporaries, Lord King, referred to the depreciation of currency as "an indirect tax . . . imposed upon the community."

[15]For this point, Shelley relied heavily on Cobbett; see *Paper Against Gold*, pp. 324–25, 331–32, especially p. 331:

> Yes: we talk about *dearness*; we talk of *high prices*; we talk of things *rising in value*; but, the fact is, that the change has been in the *money* and not in the articles bought and sold; the articles remain the same in value, but the money, from its abundance, has *fallen in value*.

(Cobbett's italics). For historical support for this claim, see Halévy, p. 306; also T.S. Ashton, *The Industrial Revolution 1760–1830* (London: Oxford University Press, 1948), p. 103.

[16]Shelley, *A Philosophical View of Reform*, p. 26.

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For Shelley, the last straw in British financial policy was the government's suspension of the convertibility of Bank of England notes to gold and silver, thus instituting a pure paper currency:[17]

> The holders of these papers came for payment in some representation of property universally exchangeable. They [the government] then declared that the persons who hold the office for that payment could not be forced by law to pay. They declared subsequently that these pieces of paper were the legal coin of the country.[18]

Severing the British currency from any link to precious metals further increased the capacity of the government to engineer inflation.[19] And, unlike some economists, Shelley does not make the mistake of viewing inflation as having a neutral impact on the economy, as if the rise in prices affects everybody equally. Rather, he sees inflation "benefiting at the expense of the community the speculators in this traffic."[20] Although this brief comment does not reflect a full understanding of how inflation redistributes wealth, Shelley does have an inkling of the importance of the fact that inflated currency necessarily enters the economy at one point and not another; thus, those who first have access to the money reap the benefits of spending it before it has had time to increase prices.[21]

Hence, Shelley views inflation as an unmitigated disaster for the majority of people in England, who see the purchasing power of their money eroded, perhaps even cut in half. As Shelley sarcastically writes:

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[17]For discussions of this important episode in British economic history, which led to the so-called bullionist controversy, see Friedrich Hayek, *The Trend of Economic Thinking: Essays on Political Economists and Economic History*, vol. 3 of his *Collected Works* (Chicago: University of Chicago Press, 1991), pp. 177–215; John F. Chown, *A History of Money: From AD 800* (London: Routledge, 1994), pp. 232–45; and Rothbard, *Classical Economics*, pp. 157–224. For an attempt to relate this economic episode to literary developments, see Kevin Barry, "Paper Money and English Romanticism: Literary side-effects of the last invasion of Britain," *TLS* (21 February 1997): 13–16.

[18]Shelley, *A Philosophical View of Reform*, p. 27.

[19]On this point, see Cobbett, *Paper Against Gold*, pp. 5–8.

[20]Shelley, *A Philosophical View of Reform*, p. 27.

[21]Shelley may have known about this point from reading David Hume's essay "Of Money." See David Hume, *Essays: Moral, Political and Literary* (London: Oxford University Press, [1741–42] 1963), pp. 291–92. For Shelley's knowledge of Hume's *Essays*, see Cameron, "Shelley, Cobbett," p. 200. For more on the understanding in Shelley's day of the uneven effects of inflation, see Rothbard, *Classical Economics*, pp. 182, 210.

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> One of the vaunted effects of this system is to increase the national industry. That is, to increase the labours of the poor and those luxuries of the rich which they supply. To make a manufacturer work 16 hours where he only worked 8. To turn children into lifeless and bloodless machines at an age when otherwise they would be at play before the cottage doors of their parents.[22]

Here Shelley finally begins to talk about the horrors of working conditions in early nineteenth-century England, but contrary to conventional opinion about the economic attitudes of the Romantics, he attributes the problems not to the Industrial Revolution but to the financial policies of the British government and specifically to its suspension of gold and silver convertibility. It is particularly noteworthy that Shelley blames child labor not on the rapacity of English industrialists but on the fraudulent monetary policies of the government. The point is sufficiently important to Shelley for him to repeat it:

> Since the institution of this [system]. . . , they have often worked not ten but twenty hours a day. Not that all the poor have rigidly worked twenty hours, but that the worth of the labour of twenty hours now, in food and clothing, is equivalent to the worth of ten hours then. And because twenty hours' labour cannot, from the nature of the human frame, be exacted from those who before performed ten, the aged and the sickly are compelled either to work or starve. Children who were exempted from labour are put in requisition, and the vigorous promise of the coming generation blighted by premature exertion. For fourteen hours' labour, which they do perform, they receive—no matter in what nominal amount—the price of seven. They eat less bread, wear worse clothes, are more ignorant, immoral, miserable and desperate.[23]

I am not claiming that Shelley was right in blaming all the economic woes of early nineteenth-century England on the government's monetary policies.[24] There does seem to be something al-

[22]Shelley, *A Philosophical View of Reform*, p. 27.

[23]Shelley, *A Philosophical View of Reform*, p. 30. Incredibly, Foot (*Radical Shelley*, p. 91) cites this passage as an illustration of the Marxist theory of wage exploitation, as if Shelley were talking about workers who perform fourteen hours of labor but are paid for only seven, rather than workers who find that the depreciation of the currency means that the wage for fourteen hours of labor now has the purchasing power that the wage for seven used to have. Foot tries to attribute to capitalist exploiters the baleful effects that Shelley attributes to government-engineered inflation.

[24]Scrivener, *Radical Shelley*, p. 136, argues that Shelley's fixation on the national debt was merely an example of "rhetorical duplicity" adopted from Cobbett. Scrivener would rather blame the misery Shelley discusses on the "industrial revolution" (p. 215). Though Shelley was perfectly capable of disguising his views, it is

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most monomaniacal about his seizing upon deficit financing as the sole cause of working-class poverty. Still, one should never underestimate the corrosive effects of inflation on any economy, and statistics do bear out Shelley's claims. Prices in England did, in fact, roughly double between 1790 and 1815.[25] But I am not using Shelley to make a point about English economic history; I am trying to make a point about *attitudes* toward English economic history. Whether or not Shelley correctly identified the cause of economic misery in his day, we can learn something about the nature of his radicalism by observing what he chose to focus on. And here, Shelley could not be more explicit in stating his conclusion:

> The cause of this peculiar misery is the unequal distribution which, under the form of the national debt, has been surreptitiously made of the products of their labour and the products of the labour of their ancestors.[26]

So obsessed is Shelley with the problem of the national debt that he even argues that had it been solved, the issue of reforming Parliament might not have come up:

> At the peace, the people would have been contented with strict economy and severe retrenchment, and some direct and intelligible plan for producing that equilibrium between the capitalists and the landholders which is delusively styled the payment of the national debt: had this system been adopted, they probably would have refrained from exacting Parliamentary Reform, the only secure guarantee that it would have been pursued.[27]

III

Just as Shelley focuses on the national debt as the origin of England's economic problems, so he focuses on it when proposing solutions to the problems. Readers expecting Shelley to suggest economic measures characteristic of modern radicalism will be

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difficult to see how following "Cobbett's tactic of concentrating the public wrath on the fundholders" (Scrivener, p. 136) against his better judgment would have aided Shelley's cause. If anything, attacking the public funding system got him in trouble; see McNiece, *Shelley*, p. 8: "Apparently his doctrines were alarming his friends in Italy with money invested in the funds."

[25]See the data in Norman J. Silberling, "British Prices and Business Cycles, 1779–1850," *The Review of Economic Statistics* 5 (1923): 223–47, especially the graphs on pp. 230, 234, and 235. Rothbard, *Classical Economics*, p. 160, points out that during the same period, the money supply in England also roughly doubled.

[26]Shelley, *A Philosophical View of Reform*, p. 31.

[27]Shelley, *A Philosophical View of Reform*, p. 45.

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sorely disappointed by *A Philosophical View of Reform*. Faced with the poverty of the working class, he does not call for the nationalization of industry or the expropriation of capital.[28] He does not suggest using the tax system to redistribute wealth.[29] He does not even propose laws to regulate working conditions in factories, to limit hours, or to forbid child labor. Far from calling for increased government intervention in the economy, Shelley wants to get the government out of the market as much as possible. Here is the sum total of Shelley's "economic program":

> We would abolish the national debt.
>
> We would disband the standing army.
>
> We would, with every possible regard to the existing interests of the holders, abolish sinecures.
>
> We would, with every possible regard to the existing interests of the holders, abolish tithes, and make all religions, all forms of opinions, respecting the origin and government of the Universe, equal in the eye of the law.
>
> We would make justice cheap, certain and speedy, and extend the institution of juries to every possible occasion of jurisprudence.[30]

This is not a pro-socialist but a pro-capitalist program; like a laissez-faire economist, Shelley is chiefly concerned with getting the government out of the way of legitimate and spontaneous economic activity. He wants to simplify the court system, and to eliminate any remaining vestiges of feudal privilege in England, including government sinecures and established church benefices. In general, he directs his hostility not toward entrepreneurs, who create wealth by their own efforts, but toward aristocrats, whose

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[28]Shelley does consider the possibility of a one-time tax on capital to liquidate the national debt. The fact that David Ricardo advocated the same policy suggests that this is not a particularly "socialist" position. For the relation between Shelley and Ricardo on this issue, see Cameron, "Shelley, Cobbett," pp. 207–9; also McNiece, *Shelley*, pp. 88–89.

[29]Twentieth-century literary critics have had a hard time comprehending the "radicalism" of Shelley's essay, since they keep imputing their own economic opinions to Shelley. Cameron, "Shelley, Cobbett" p. 205, feels a need to supplement Shelley's analysis of the economic misery of his day:

> For another important reason for the increased hardships on the poor in these years and one which Shelley doubtless had in mind, we must turn to the financial history of the time. This was the abolition of the income tax in 1816.

Writing in the wake of the New Deal, Cameron could not understand how any intelligent person could fail to be in favor of progressive income taxation, but in fact Shelley never once complains about the abolition of the income tax; for the reasons why, see Halévy, *History of the English People*, pp. 326-28, who concludes, "the income tax was in universal disfavour."

[30]Shelley, *A Philosophical View of Reform*, p. 34.

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wealth is based solely on privileges granted them by the government. Indeed, Shelley views capitalism as a genuine advance over the system that preceded it, feudalism, and its late incarnation in mercantilism:

> Feudal manners and institutions having become obliterated, monopolies and patents having been abolished, property and personal liberty having been rendered secure, the nation advanced rapidly towards the acquirement of the elements of national prosperity. Population increased, a greater number of hands were employed in the labours of agriculture and commerce, towns arose where villages had been.[31]

Like Adam Smith, Shelley does not object to business as such, but only to the *alliance* between business and government that was at the core of the mercantilist system. When a government grants some businessmen privileges at the expense of others, when, for example, it confers a monopoly on one company, then it earns Shelley's scorn.

How does Shelley connect the issue of the national debt with the issue of monopoly? In many ways, the Bank of England was the greatest of all government monopolies, gradually given more and more exclusive privileges that allowed it to function in accord with the purposes of the British crown.[32] The way the Bank was set up ensured that banking and finance in England did not develop along laissez-faire lines; rather the state maintained a massive presence in, influence on, and even control over all financial markets. Shelley is at his most acute in *A Philosophical View of Reform* in his understanding of the sinister alliance between government and business interests involved in the development of public finance in eighteenth-century England. Indeed, the most brilliant part of the essay is a sociological analysis of the new alignment of economic and political forces in the eighteenth-century British regime.[33]

In analyzing the origins of the national debt, Shelley points out:

> It was employed at the accession of William III less as a resource of meeting the financial exigencies of the state than as

[31]Shelley, *A Philosophical View of Reform*, p. 22.

[32]On the monopoly status of the Bank of England, see Halévy, *History of the English People*, p. 302; Ashton, *Economic History*, pp. 178–79, 183; Chown, *History of Money*, p. 234; and Rothbard, *Classical Economics*, pp. 159, 183.

[33]The best analysis I know of the nature of this regime is Harvey C. Mansfield, Jr., "Party Government and the Settlement of 1688," *American Political Science Review* 58 (1964): 933–46, which does an excellent job of relating the financial policies of the Whigs to their fundamental political program.

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> a bond to connect those in the possession of property with those who had, by taking advantage of an accident of party, acceded to power.[34]

The government needed money to finance its wars with France and its rebellious colonies in America. As Shelley writes, "The national debt was chiefly contracted in two liberticide wars, undertaken by the privileged classes of the country."[35] It was easier for the British government to borrow the money to finance its wars than to raise it by taxation (governments never want their citizens to have a clear idea of what military expeditions cost). But Shelley suggests a hidden political agenda behind the system of public credit the British developed—it forged a bond between the government and the financial interests in the country. Bankers and other moneyholders were eager to lend to the government because of the security of such loans. When a banker lends to businessmen, he is gambling that their businesses will produce sufficient revenue to meet the interest payments on the loans and eventually to repay the principal. But governments are not dependent on the vicissitudes of the market; they rely on their ability to raise money by taxes to make their interest payments, and, if all else fails, in the era of paper currency they can always just print the money to meet their financial obligations. That is why governments have an advantage over private businesses, and can usually obtain loans at favorable rates of interest. More importantly, from Shelley's perspective, once the monied interests began to lend large amounts to the British government, they became tied to the fortunes of that government. They would hardly work for the overthrow of a government heavily indebted to them and a chief source of their steady and secure income.[36] Thus, as Shelley points out, the landed aristocrats who created and dominated the eighteenth-century British regime gradually cemented support for their rule from the financial interests in the city of London by means of the new public credit system.

Shelley clarifies for his reader what is really involved in the complicated and confusing national debt situation:

> The fact is that the national debt is a debt not contracted by the whole nation towards a portion of it, but a debt

[34]Shelley, *A Philosophical View of Reform*, p. 25.

[35]Shelley, *A Philosophical View of Reform*, p. 34. See also Cobbett, *Paper Against Gold*, p. 424. For a general historical account of the connection between British war policy and the development of deficit financing, see John Brewer, *The Sinews of Power: War, Money and the English State 1688–1783* (Cambridge, Mass.: Harvard University Press, 1988).

[36]Hume makes this point in his important essay "Of Public Credit." See *Essays*, pp. 359–60.

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> contracted by the whole mass of the privileged classes towards one particular portion of those classes. . . . As it is, the interest is chiefly paid by those who had no hand in the borrowing, and who are sufferers in other respects from the consequences of those transactions in which the money was spent. The payment of the principal of what is called the national debt, which it is pretended is so difficult a problem, is only difficult to those who do not see who is the creditor, and who the debtor, and who the wretched sufferers from whom they both wring the taxes which under the form of interest is given by the [latter] and accepted by the [former].[37]

Shelley exposes the scam the British government developed that has served as a model to all governments since. The ruling powers in England got the money they needed to finance their enterprises, chiefly war. The monied interests found a profitable and secure way of placing loans, with a virtually guaranteed steady stream of interest income. And all this was paid for by the majority of honest, hard-working Englishmen, either in the form of direct taxation, or in the indirect form of an inflation tax whenever the government debt was monetized, thus increasing the currency in circulation and raising prices. As Shelley indicates, this system worked only because the interested parties were able to hide the reality of what was going on from the general populace. The intricacies of the banking system mystified the public and obscured the truth about the national debt. Shelley's aim in *A Philosophical View of Reform* was to demystify the public finance system in England and reveal it for what it was—a massive scheme to defraud the people of England, to get the poor to pay for servicing the debt of the rich.[38]

Those who still wish to believe in a proto-socialist Shelley might take comfort from the fact that he employs the rhetoric of rich versus poor, as if class warfare were at the center of his economic doctrine. But, unfortunately for any Marxist appropriation of Shelley, when he speaks of "the rich," he does not mean what Marxists do by the term. Shelley is, in fact, careful to explain the restricted range of the term in his vocabulary:

> When I speak of persons of property I mean not every man who possesses any right of property; I mean the rich. Every

[37]Shelley, *A Philosophical View of Reform*, pp. 35–36.

[38]Shelley learned the need for such demystification from Cobbett; see *Paper Against Gold*, pp. 8–9, and especially p. 421:

> One would really suppose, that the general creed was, that the Bank Directors were the Gods of the country, that they were our Sustainers if not actually our Makers, that from them we derived the breath in our nostrils, that in and through them we lived, moved, and had our being.

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> man whose scope in society has a plebeian and intelligible utility, whose personal exertions are more valuable to him than his capital; every tradesman who is not a monopolist, all surgeons and physicians and those mechanics and editors and literary men and artists, and farmers, all those persons whose profits spring from honourably and honestly exerting their own skill and wisdom or strength in greater abundance than from the employment of money to take advantage of the necessity of the starvation of their fellow-citizens for their profit, are those who pay, as well as those more obviously understood by the labouring classes, the interest of the national debt. It is in the interest of all these persons as well as that of the poor to insist upon the payment of the principal.[39]

This passage is crucial for understanding what is distinctive in Shelley's formulation of England's economic problems. He does not categorize class conflict in England in the terms that Marx and his followers were soon to employ. Shelley does not think in terms of a sharp opposition between the bourgeoisie and the proletariat; that is *not* his definition of rich versus poor. In fact, Shelley argues that a large portion of the middle class should make common cause with the working class over the issue of the national debt; both are being taken advantage of by the aristocracy in alliance with a small portion of the middle class.

Shelley's argument turns on his distinction between two subsets, as it were, of the middle class. He distinguishes between those who are, in effect, clients of the government—those who benefit financially from its operation—and those who, through taxes and other forms of government appropriation, are net losers in the system. The latter class includes the majority of what we would call middle-class professionals—doctors, for example—but it also includes businessmen who are not the beneficiaries of government interference in the free market, that is, "every tradesman who is not a monopolist." What defines this subset of the middle class for Shelley is that its contribution to the economy has nothing to do with the government (that is, what Shelley calls its "plebeian and intelligible utility").

The other subset of the middle class consists of all those professionals who have sprung up in connection with the new system of public finance—the bankers, the bond traders, the stockbrokers—a new category of men who have become dependent on the government to enrich them. Shelley has such contempt for all who derive their wealth from serving the ruling powers in

[39]Shelley, *A Philosophical View of Reform*, pp. 36–37.

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England that he insists upon calling them aristocrats.[40] As he formulates the point, England is now burdened with *two* aristocracies: the old one, consisting chiefly of the great landowners and long-established merchant families, and a new one, consisting of all the satellites and hangers-on of the system of public finance.[41] And for Shelley, this new aristocracy is worse than the old, since it is mean-spirited and grasping whereas the old one at least had a certain nobility and largeness of vision:[42]

> The other is an aristocracy of attornies and excisemen and directors and government pensioners, usurers, stock jobbers, country bankers. . . . These are a set of pelting wretches in whose employment there is nothing to exercise . . . the more majestic faculties of the soul. Though at the bottom it is all trick, there is something frank and magnificent in the chivalrous disdain of infamy connected with a gentleman. . . . But in the habits and lives of this new aristocracy created out of an increase [in] the public calamities . . . there is nothing to qualify our disapprobation. They eat and drink and sleep, and in the interval . . . they cringe and lie.[43]

Shelley negatively characterizes the segment of the middle class that developed to make the system of public finance work, professionals who came to have an interest in seeing the national debt grow (since they in effect earned their living from it) and who therefore wanted to see government activities expand in general.[44] Shelley thus shows how the ruling powers in England

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[40]On the status of the new species of financial professionals, especially the stockbrokers, see Halévy, *History of the English People*, pp. 314–16; Halévy himself refers to them as "aristocrats" (pp. 299, 314).

[41]Cameron, "Shelley, Cobbett," pp. 201–2, claims that Shelley derived the idea of the two aristocracies from Cobbett, but, as Cameron himself admits (p. 209), Shelley's analysis of the situation is considerably more complex and subtle than is Cobbett's.

[42]Hume offers a similar analysis of the ignobility of the new class of financial professionals in his "Of Public Credit," p. 363.

[43]Shelley, *A Philosophical View of Reform*, pp. 28–29.

[44]The one seemingly "Marxist" aspect of Shelley's essay is his tendency to explain people's opinions in terms of their underlying economic interests. Yet, ultimately, Shelley is not a Marxist, because he does not apply this principle mechanically. In another passage which Ingpen and Peck relegate to their notes (p. 336), Shelley explicitly denies the Marxist principle that economic interests strictly determine political opinions:

> It is not alledged that every person whose interest is directly or indirectly in the maintaining things as they are, is therefore necessarily interested. There are individuals who can be just judges even against themselves, and by study and self-examination have established a severe tribunal within themselves to which these principles which demand the advantage of the greater number are admitted to appeal.

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forged an alliance with a segment of the rising middle class: "the hereditary aristocracy who held the political administration of affairs took the measures which created this other [aristocracy] for purposes peculiarly its own."[45]

The subtle way in which Shelley distinguishes between elements of the middle class provides a good warning against applying Marxist terminology or analysis indiscriminately to authors, especially to authors who wrote before Marx.[46] Whenever someone takes the side of the poor against the rich, it is tempting to classify him as a socialist. But Shelley's case reminds us that there is more than one way to champion the poor or attack the rich. Indeed, as we have seen, Shelley means something quite distinctive, even idiosyncratic, when he uses the term "rich." For Shelley, how one derives one's wealth is vitally important. He defines the "rich" as only those whose wealth is the result of political privilege, whether based in aristocratic inheritance or monopoly grants from the government. Shelley does not object to wealth when it is derived from the independent operation of the free market, when it results from hard work or entrepreneurial spirit. In this regard, his radicalism again resembles that of the original British champions of the free market, such as Adam Smith. Shelley defends the poor not against capitalists but against mercantilists, that is, against businessmen who are in league with the government to defraud and exploit both the poor and a large portion of the middle class.

IV

When Shelley deals with the issue of equality of property, he comes to conclusions that are far from socialist. He does hold up equality of wealth as an ideal, but he also insists that political attempts to achieve such equality are ill-advised, at least under current conditions. Thus, even when Shelley sounds

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Hoagwood, *Skepticism and Ideology*, pp. 85–86, unaccountably offers this passage as an example of Shelley's Marxist thinking, as if Marxism allowed individuals within a class to be exempt from class consciousness.

[45]Shelley, *A Philosophical View of Reform*, p. 29.

[46]In a detailed reading of *A Philosophical View of Reform*, Hoagwood discusses the work in terms of "class struggle" (*Skepticism and Ideology*, p. 184), and in the process reveals the pitfalls of viewing the work through the lens of Marxism. Unfamiliar with the economic history that Shelley is analyzing, Hoagwood confuses the general issue of currency depreciation with the specifically Marxist issue of surplus capital. Like a politician referring to government spending as "investment," he apparently does not understand the difference between "capital investment" and "the national debt" (p. 184).

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most like a socialist, he explicitly repudiates socialist economic policies:

> The broad principle of political reform is the natural equality of men, not with relation to their property but to their rights. That equality in possessions which Jesus Christ so passionately taught is a moral rather than a political truth and is such as social institutions cannot without mischief inflexibly secure. . . . Equality in possessions must be the last result of the utmost refinements of civilization; it is one of the conditions of that system of society, towards which with whatever hope of ultimate success, it is our duty to tend. We may and ought to advert to it as to the elementary principle, as to the goal, unattainable, perhaps, by us, but which, as it were, we revive in our posterity to pursue. . . . But our present business is with the difficult and unbending realities of actual life, and when we have drawn inspiration from the great object of our hopes it becomes us with patience and resolution to apply ourselves to accommodating our theories to immediate practice.[47]

Shelley presents equality of wealth as a purely utopian principle. It is an ideal we may ultimately aim at, but not one we can reasonably expect to achieve, certainly not under present conditions, and possibly never at all. All Shelley is willing to endorse is the political principle of the equality of rights, which is why he argues for parliamentary reform to extend the voting franchise. But he is not willing to promote the principle of economic equality, and explicitly states that any attempt to bring it about by political means would have pernicious consequences. This passage helps to explain the relation of Shelley's poetic to his prose statments of his principles. Works like *Prometheus Unbound* allow him to present the ideal and utopian vision of which he speaks here, the image of a classless society based on political *and* economic equality. But for Shelley, such a poetic vision is not a blueprint for concrete political action; it is merely an inspiration for working to improve the human condition in much more practical and limited ways. Shelley's poetry inspires us to make life better; prose works, like *A Philosophical View of Reform*, show us how it can actually be done.[48]

Thus, when Shelley analyzes the issue of property, he defends the institution in terms familiar from free-market economics. Characteristically, he distinguishes between property acquired as a result of participation in the free market and property obtained only as a result of government intervention in the

[47]Shelley, *A Philosophical View of Reform*, pp. 42–43.

[48]On this point, see McNiece, *Shelley*, pp. 93–94, 265.

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market. Shelley has no objection to property acquired by honest economic effort, whether it is the result of working-class labor or middle-class entrepreneurship:[49]

> Labour, industry, economy, skill, genius, or any similar powers honourably and innocently exerted are the foundations of one description of property, and all true political institutions ought to defend every man in the exercise of his discretion with respect to property so acquired. Of this kind is the principal part of the property enjoyed by those who are but one degree removed from the class which subsists by daily labour.[50]

Once again, Shelley claims that the working class and the industrious portion of the middle class share common interests, this time in maintaining the rights to property and to enjoying the fruits of their exertions. Shelley does not like the idea that this right includes the right of inheritance, because that confers property on people who did not earn it by their own efforts. But in the end he is willing to defend even that right:

> Property thus acquired men leave to their children. Absolute right becomes weakened by descent, . . . because it is only to avoid the greater evil of arbitrarily interfering with the discretion of any man in matters of property that the great evil of acknowledging any person to have an exclusive right to property who has not created it by his skill or labour is admitted.[51]

One may object to the way in which the right to property in a free market distributes wealth, but before tampering with this system, one must consider carefully whether any alternative system will distribute wealth more justly. In fact, as arbitrary as the distribution of wealth in the free market may seem to be, Shelley suggests that to allow a political authority to substitute its judgment for the market's will only result in greater arbitrariness and injustice.[52]

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[49]Cobbett, *Paper Against Gold*, p. 34, takes, if anything, a more generous view of the right of the middle and upper classes to property:

> Physicians, Parsons, Lawyers, and others of the higher callings in life, do, in fact, labour; and it is right that there should be persons of great estate, and without any profession at all; but then, you will find, that these persons *do not live upon the earnings of others*: they all of them give something in return for what they receive. Those of the learned profession give the *use of their talents and skill;* and the landlord gives the *use of his land or his houses*. (Cobbett's italics).

[50]Shelley, *A Philosophical View of Reform*, p. 37.

[51]Shelley, *A Philosophical View of Reform*, p. 37.

[52]In this argument, Shelley was following the teaching of his father-in-law, William Godwin. See Book 8, "Of Property," in his *Enquiry Concerning Political Justice* (Har-

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Thus, Shelley is willing to take his chances with the free market. He realizes that the right to acquire property in a free market is inseparably bound up with the right to lose it. If the heirs of industrious people are not themselves industrious, their inherited wealth will soon pass into the hands of others who are more industrious:

> The privilege of disposing of property by will . . . exerted merely by those who have acquired property by industry or who have preserved it by economy, would never produce any great and invidious inequality of fortune. A thousand accidents would perpetually tend to level the accidental elevation, and the signs of property would perpetually recur to those whose deserving skill might attract or whose labour might create it.[53]

Shelley could not be further from Marxism or any socialist dogma here. He argues that the free market actually works toward equalizing wealth, and, above all, directs it to the most productive sectors of the economy.[54]

For Shelley, the only force that can produce great inequality of wealth is the government. Hence, he condemns all those rights to property conferred solely by government intervention in the economy. It is to this source—and this source alone—that he traces any massive concentration of wealth:[55]

> They were either grants from the feudal sovereigns whose right to what they granted was founded upon conquest or oppression, both a denial of all right; or they were the lands of the antient Catholic clergy which according to the most acknowledged principles of public justice reverted to the nation at their suppression, or they were the products of patents and monopolies, an exercise of sovereignty most

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mondsworth, England: Penguin Books, [1798] 1976), especially Chapter 2, pp. 711–19, and p. 755:

> We should, at all times, be free to cultivate the individuality, and follow the dictates, of our own judgement. If there be anything in the idea of equality that infringes this principle, the objection ought probably to be conclusive. If the scheme be, as if has often been represented, a scheme of government, constraint and regulation, it is, no doubt, in direct hostility with the principles of this work. But the truth is that a system of equality requires no restrictions or superintendance. There is no need of common labour, meals or magazines.

This clear warning against what have become socialist economic policies is a good indication that, despite the view of many intellectual historians, Godwin is no more deserving than his son-in-law of being placed in the camp of proto-socialists. Cf. Scrivener, *Radical Shelley*, p. 36: "If Shelley adumbrates Marx, so does Godwin."

[53]Shelley, *A Philosophical View of Reform*, p. 38.

[54]Godwin again makes the same argument; see *Political Justice*, pp. 791–92.

[55]Once again, see Godwin, *Political Justice*, pp. 719–20.

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> pernicious that [does] direct violence to the interests of a commercial nation; or in later times such property as has been accumulated by dishonourable cunning and the taking advantage of a fictitious paper currency to obtain an unfair power over labour and the fruits of labour.[56]

Having carefully analyzed the objections to the right of property, Shelley in the end comes out unequivocally in favor of it, provided the property results from the operation of the free market:

> Labour and skill and the immediate wages of labour and skill is a property of the most sacred and indisputable right, and the foundation of all other property. And the right of a man [to] property in the exertion of his own bodily and mental faculties, or to the produce and free reward from and for that exertion is the most [inalienable of rights].[57]

This spirited defense of the right to private property should put an end to the myth of Shelley the socialist.[58]

V

Contemporary critics have a tendency to project contemporary issues back into literary history. In the twentieth century, the great economic issue has been socialism versus capitalism. Thus, when a literary critic looks for the economic position of an earlier author, he often unconsciously assumes that it will be either socialist or capitalist, and, in particular, he assumes that to be economically progressive or radical has always meant to lean toward socialism. Yet, even in terms of Marx's system, this understanding has to be judged to be incorrect. For Marx, there was a time when capitalism was the *progressive* force in history, namely, when it worked to undermine and overthrow feudalism. That is the spirit we see throughout Shelley's essay. For him, the great enemy is not capitalism but feudalism and its late incarnation, mercantilism. Shelley argues that to the extent that the government intervention in the economy characteristic of feu-

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[56]Shelley, *A Philosophical View of Reform*, pp. 38–39.

[57]Shelley, *A Philosophical View of Reform*, p. 39.

[58]The fact that it should does not, of course, mean that it will. Foot manages to present Shelley's treatment of the issue of property in *A Philosophical View of Reform* as an example of his socialist thinking. To do so, Foot must treat Shelley's analysis as "rough-and-ready" and "groping," implying strongly that the poet is simply confused. In particular, Foot describes Shelley's clear-cut distinction between earned and unearned property this way: "Shelley's line between the two was vague" (*Red Shelley*, pp. 94–95). Foot's Marxist prejudices repeatedly blind him to the literal meaning of Shelley's prose.

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dalism and mercantilism was eliminated, and free-market forces were allowed to come into play, the welfare of England increased, and the gap between the rich and the poor began to decrease. For Shelley, this progress was thwarted only by mercantilist survivals in the British financial system, and, above all, by the government's manipulation of the currency.

Reading Shelley's *A Philosophical View of Reform* should, thus, force us to rethink the common view that the English Romantic poets were left wing in the contemporary understanding of the term. Of course, I do not wish to make too much of a single essay by a single author; Shelley does not speak for all the Romantics in any of his writings, and certainly not in *A Philosophical View of Reform*. One cannot conclude from this one work that all the Romantics supported the free market. Nevertheless, Shelley's essay does provide an important test case. He is generally regarded as the most politically committed of the English Romantics, and as the one with the most radical economic views. As for *A Philosophical View of Reform*, with the possible exception of some of Coleridge's prose works, it is the most significant and substantive essay on economic matters produced by any of the English Romantics.[59] Thus, one cannot easily dismiss what we have seen in Shelley's essay. While it does not allow us to generalize about what all the Romantics believed, it does effectively refute the generalization that all the Romantics were anti-capitalist and proto-socialist. It conclusively shows that, for at least one Romantic, championing liberty meant supporting the free market and the right to property, while condemning government intervention in the economy. At the time that Shelley lived, capitalism was the progressive force (even according to the Marxist view of history), and he argued for it passionately.[60]

But I do not wish to leave the impression that Shelley's argument is somehow historically contingent or limited by the horizons of his era. Shelley makes a powerful case for the right to property under any historical circumstances, and his analysis of the negative effects of deficit financing, monetization of debt,

[59]Hoagwood calls *A Philosophical View of Reform* "one of the most advanced and sophisticated documents of political philosophy in the nineteenth century" (*Skepticism and Ideology*, p. 209). Foot says that "it ranks in style and in content with the most famous radical pamphlets of our history," including those "of Bentham or Robert Owen or Marx and Engels" (*Red Shelley*, pp. 10–11). In his *Literature and the Marketplace* (Lincoln: University of Nebraska Press, 1996), p. 89, William G. Rowland, Jr. calls the essay "the most sustained and impressive political treatise written by a romantic poet."

[60]Scrivener, *Radical Shelley*, p. 9, grants the point that in the early nineteenth century, laissez-faire capitalism "was a progressive, anti-aristocratic position."

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paper currency, and government inflationary policies remains valid, and has been confirmed by subsequent economic history and developments in later economic theory, such as the Austrian theory of money, credit, and the business cycle. Perhaps the most interesting and enduring aspect of Shelley's argument is his distinction between two groups within the middle class, those who make their living independent of the government and those who are crucially dependent on it for their livelihood. With this analysis, Shelley makes an important contribution to our understanding of why governments were able to exert insidious and invidious control over the economy even in the supposedly laissez-faire economic era.

More generally, Shelley shows how the forces of feudalism and mercantilism were able to survive into the era of capitalism by hiding behind the system of banking and finance. One of the great failings of classical economics was its inability to understand fully the phenomena of money and banking. Shelley does not supply that understanding, but at least he grasps the fact that the British financial system was not the product of free-market evolution, but rather was heavily influenced by government intervention. Even at the height of the so-called laissez-faire era of capitalism, England did not have free banking, but rather in effect a central bank, with all that such an institution implies for government control of currency and finance.

Thus, in criticizing the British financial system, Shelley is condemning not capitalism, but rather a mercantilist survival into the capitalist era, indeed that greatest of all chartered monopolies, the Bank of England.[61] Here is the chief value of Shelley's essay for our understanding of economic history and the literary reflection of that history. He shows that the alignment of economic forces in the early nineteenth century was not as simply polarized as Marxist and other socialist thought often assumes, and especially that the bourgeoisie did not constitute a homogeneous class with a unified economic interest and, in Marxist terms, a unified ideology. Shelley acutely analyzes how the old aristocracy in England, in order to maintain its power, played off one part of the middle class against another, effectively split-

[61]In another bracketed passage, which Ingpen and Peck place in their notes (p. 338), Shelley writes: "the present miseries of our country are nothing necessarily inherent in the stage of civilization at which we have arrived." For Shelley, the problem is not that England has become capitalist, but that it has not become fully capitalist, that is, elements of the mercantilist system are still in place. As Shelley's analysis reminds us, capitalism is often blamed precisely for the results of anti-capitalist government policies.

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ting the bourgeoisie by giving one element of it reason to continue to support state power. A glance at the legions of middle-class professionals employed by the vast bureaucratic states of today reminds us that Shelley's analysis is, if anything, even more valid in our world. Sometimes, poets have something to teach to economists.

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LAISSEZ FAIRE AND LITTLE ENGLANDERISM: THE RISE, FALL, RISE, AND FALL OF THE MANCHESTER SCHOOL

By Gregory Bresiger*

War Follows Protection. Peace Follows Free Trade. As David Ricardo said, "If you want peace, starve the government." Adam Smith believed that trade both refined the manners and improved the standard of living of a people.[1] Throat cutting and xenophobia decline with the growth of internationalism.

For those who love liberty, war is the greatest tragedy, said Senator Robert Taft.[2] Taft died having expressed his doubts about NATO, the Korean War, and the foundations of the post-World War II welfare–warfare state. Surely, Taft and other libertarian critics wouldn't have liked George Bush's New World Order, President Clinton's meddling in Haiti, or his confused attempt to bring peace to the Balkans. Taft believed that war, and war scares, represented the ultimate centralization of state power, a time when governments could and often would accumulate huge powers that weaken private-property rights and destroy liberty. These powers, libertarian critics feared, might not be returned to the people once the war was over.[3]

Indeed, some Socialist philosophers didn't want these economic liberties returned. Collectivists John Dewey and Stuart Chase, impressed by the government's takeover of various sectors of the economy during World War I, believed it proved the gov-

*Gregory Bresiger is a writer with *On Wall Street* and *Financial Planning* magazines, as well as a columnist for *Health, Money, and Travel* magazine.

[1]Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (London: Penguin Books, 1986) book III, p. 508.

[2]Quoted in Justin Raimondo, *Reclaiming The American Right: The Lost Legacy of the Conservative Movement* (Burlingame, Calif.: Center for Libertarian Studies, 1993), p. 151. Also see Ronald Radosh, *Prophets on the Right: Profiles of Conservative Critics of American Globalism* (New York: Simon and Shuster, 1975), pp. 147–95.

[3]James Joseph Martin, *American Liberalism and World Politics* (New York: Devin-Adair, 1964), vol. 2, p. 1278. Also, *Cold War Critics: Alternatives to American Foreign Policy in the Truman Years*, Thomas Patterson, ed. (Chicago: Quadrangle, 1971), especially Murray Rothbard's comment: "The prevailing trend, certainly among the intellectuals of the Old Right, was a principled and trenchant opposition to war and its concomitant destruction of life and liberty and all human values" (p. 167). Also see John T. Flynn, *As We Go Marching* (New York: Free Life Editions, 1973).

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ernment's efficiency in organizing production and distribution, as well as proving the usefulness of wage and price controls. These wartime methods could and should be used in peacetime, collectivists believed, to provide full employment, wipe out inequities, and create an American utopia.[4] After World War II, a less timid, more imperial federal government was ready to take on permanent powers, managing the economy just as it attempted to remake major parts of the world in the image of a "great" America. Henry Luce's "American Century" had arrived.[5]

THE PRICE OF EFFICIENCY

But friends of liberty have warned that this efficiency was illusory, and that it would endanger the rule of law, as governments turned emergency powers into permanent powers. Constitutional safeguards would be at risk as they had been during the War Between the States, World War I, and World War II, said libertarian critics.[6] War and warlike conditions, or periodic panics, become permanent. War becomes "the health of the state," a *raison d'etre*.[7] It also leads to citizens who are more likely to accept the destruction of civil liberties and view dissent as tantamount to treason. Normally reasonable people support irrational actions, such as the incarceration of loyal Japanese-Americans during World War II, or Britain's oppressive Defense of the Realm Act during World War I,[8] or the Sedition Act during the

[4]Stuart Chase, *The Economy of Abundance* (Port Washington, N.Y.: Kennikat Press), p. 310. Also see John Dewey, *Individualism Old and New* (New York: Mincton, Balch, 1930). For an effective criticism of this point of view, see Walter Lippmann, *The Good Society* (New York: Grosset and Dunlap, 1956), p. 35. Lippmann, whose book was originally published in the 1930s, restates many classical-liberal principles in the midst of the Great Depression.

[5]Robert E. Herzstein, *Henry Luce* (New York: Scribner's Sons, 1994), pp. 179–85. Also see Graham White and John Maze, *Henry A. Wallace: His Search for a New World Order* (Chapel Hill: University of North Carolina Press, 1995), pp. 292–93.

[6]Radosh, *Prophets on the Right*, pp. 147–95.

[7]Randolph S. Bourne, *War and the Intellectuals* (New York: Harper Torchbooks, 1964), pp. 3–14, 69. Bourne writes: "[W]ar is essentially the health of the State." Indeed, the Anglo-American experiences during World Wars I and II, as well as the endless buildup of the military–industrial complex of the last half century, which are indisputably a reversal of the traditions of American limited government and pacific foreign policies, validate the observations of Bourne and Tocqueville.

[8]Richard Shannon, *The Crisis of Imperialism, 1865–1915* (London: Hart, Davis, MacGibbon, 1974), p. 465. Indeed, measures like The Defense of the Realm Act, were so oppressive that the English monarchy felt compelled, because of the anti-German mood stirred up by the law, to change its name from Hanover to Windsor. The Battenbergs, a famous noble family of German heritage who had lived in Britain since the mid-nineteenth century, changed their name to Mountbatten. Prince

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same period in America, which saw tens of thousands of Americans jailed for nothing but their anti-war opinions. These actions are deliberately used by cynical government officials to unite the people against a common enemy.

Special war powers are justified by those arguing for a loose-construction interpretation of the president's powers.[9] The danger is that many aspects of "Constitutional Dictatorship,"[10] justified by some as the survival tactics of a republic under fire, become permanent. A nation will often stay on a war footing long after the hostilities have ceased. McCarthyism was not an accident.

A permanent war economy develops. Inefficient businesses survive solely because of political connections that lead to huge state contracts.[11] Economic and political freedoms are lost. A corporate–military complex dominates the nation. Even the end of Communism, which had previously been the ostensible reason for the departure from American principles of non-interventionism and free-market economics in the 1940s, failed to bring peace, as Americans are ready to countenance the dispatch of troops anywhere in the world.

MANCHESTERISM: ANTI-WAR LIBERTARIAN CRITICS

Taft, in his inspired dissent, was often branded an "isolationist," as are most anti-war critics to this day. Taft was merely

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Louis of Battenberg, who had been a leader at the Admiralty at the outset of the war, was driven out of his post by anti-German feeling. See Richard Hough, *The Mountbattens* (New York: Dutton, 1975).

Americans weren't much better once their nation entered the war. Some colleges tried to stop the teaching of German. Eugene V. Debs, who represented the anti-war wing of the Socialist Party, was sent to jail. H.L Mencken wrote eloquently of this in his essay, "Star Spangled Men," in *The Vintage Mencken,* Alistair Cooke, ed. (New York: Alfred A. Knopf, 1978).

[9]Lincoln's great defender during the War Between the States was William Whiting, a government attorney who wrote *The Government's War Powers Under the Constitution of the U.S.* (Glorieta, N.M.: Rio Grande Press, 1975), which justified Lincoln's war power use by claiming it was within his power as commander-in-chief.

[10]See Clinton Rossiter, *Constitutional Dictatorship: Crisis Government in the Modern Democracies* (New York: Harcourt, 1963). Rossiter, a defender of Lincoln's wartime destruction of civil liberties, nevertheless concedes that constitutional dictatorship can lead to evil.

[11]Arthur R. Ekirch, *The Decline of American Liberalism* (New York: Atheneum, 1967), pp. 314–36. In the introduction, Ekirch writes of a trend that Taft and the Manchesterities fought against: "Individual freedom continues to be threatened by the forces of nationalism and war—and the resulting concentration of ever greater powers in the institutions of the modern state and its corporate adjuncts." Also see, by the same author, *The Civilian and the Military* (New York: Oxford University Press, 1956). Also see Radosh, *Prophets on the Right.*

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expressing the concerns of the Libertarian Old Right,[12] following a tradition that can be traced in part to the Manchester School, a radical group of parliamentary members in Victorian England. They were also known as the Little Englanders, or the Peace Men.[13] Generally, they weren't pacifists, but they proclaimed themselves as followers of Adam Smith, who saw peace, a reduction in government expenditures, and free trade as vital characteristics of prosperous, free societies. They fought the same battles as Taft and those consistent friends of liberty who today call for the dismantling of the American imperial state both at home and abroad.

Manchesterism, like libertarianism today, was a philosophy ridiculed by nationalists and jingoists in Victorian England, who called it hopelessly utopian and isolationist. Lord Palmerston, the leading minister in mid-nineteenth-century England, thought it was nonsense.[14] That's not surprising because, as we can see today, it's hard to break imperial habits, as so many people have an economic, emotional, or political stake in a permanent warfare–welfare economy. Proposed base closings today can cause a flurry of anger in the United States, even in the case of bases or forts that were originally built to defend against Indian attacks![15]

MANCHESTERISM: VICTORIAN LIBERTARIANISM

An anti-empire, pro-capitalism philosophy of peace was developed by middle-class radicals Richard Cobden (1804–65), a Manchester manufacturer of calicos, and John Bright (1811–89), a Rochdale mill owner.[16] Never big enough in Parliament to form a

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[12]See Radosh, *Prophets on the Right*.

[13]A.J.P. Taylor, *The Trouble Makers: Dissent over Foreign Policy, 1792–1939* (New York: Atheneum, 1958), pp. 40–66. They were also sometimes referred to as the Peace Party, although they never made up a formal political party.

[14]Taylor, *The Trouble Makers*.

[15]There are many reports and books that one can cite about government waste. One that comes immediately to mind is Brian Kelly, *Adventures in Porkland: How Washington Wastes Your Money and Why They Won't Stop* (New York: Villard Books, 1992). In one of the more outrageous episodes of this book, the author relates how Pennsylvania's federal representatives kept the Philadelphia Naval Yard open even though the military didn't want the ships it was producing. Said Senator Arlen Specter, in an example of political double talk straight out of a Professor Irwin Corey routine: "My concern is for national defense, but there is a concern for my state" (pp. 97–98).

[16]Francis Wrigley Hirst, *Free Trade and Other Fundamental Doctrines of the Manchester School* (New York: Augustus Kelley, 1968).

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government, the Manchester group nevertheless influenced several governments that couldn't ignore its popularity in and out of Parliament. In 1846, at the height of the agitation to defeat the Corn Laws (tariffs on imported grains), it was dubbed the Manchester School by Disraeli,[17] because so many its leaders were from Manchester.

This philosophy rejected balance-of-power concepts, the Realpolitik ideas[18] championed by Lord Palmerston, twice prime minister in the mid-Victorian period, Count Metternich of the Hapsburg Empire, Count Otto von Bismarck of Prussia, and, in our time, Henry Kissinger. Cobden believed these power politics arguments were a specious intellectual justification for wars, and that any commitment to defending a balance of power was open-ended, and would bankrupt the nation through endless rounds of futile and immoral wars. Cobden wrote,

> War is a monster, whose appetite grows so fast by what it feeds on that it is quite impossible beforehand to measure its capacity for consumption, and the only safe way is to be provided with far more than at any given time seems likely required for its support.[19]

THE COSTS OF WAR

War was not only evil, the Manchester School taught, it was also so expensive that it would destroy liberty and ruin the nation as it had other imperial states that had overdosed on a diet of bread and circuses,[20] the same points made later by Albert Jay Nock, Garet Garret, Taft, and others on the Old Right in the 1930s and 1940s as America took the fatal steps away from her own Little Englander foreign policies.[21] Credulous journalists, who often whooped it up for wars at the outset,[22] rarely toted up

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[17]Donald Read, *English Provinces, c. 1760–1960: A Study in Influence* (London: Arnold, 1964), p. 151.

[18]Hitler and other power-mad nationalists despised Manchesterism, seeing it as treasonous because of its internationalist and pacific principles. Two entries in Hitler's *Mein Kampf* (New York: Houghton, 1966), pp. 93 and 120, accuse Manchesterism of being a foreign disease carried into the German-speaking world by Jews. This crackpot hatred represents another aspect of silly Zionist conspiracy theories.

[19]Richard Cobden, "What Next—And Next?" in *The Political Writings of Richard Cobden* (New York: Garland Publishing, 1973), vol. 2, p. 503.

[20]Cobden, *The Political Writings of Richard Cobden*, vol. 2, p. 498.

[21]Raimondo, *Reclaiming the American Right*.

[22]Cobden, *The Political Writings of Richard Cobden*, vol. 2, p. 571. Cobden's warning of the tendency of some in the press to warmonger is relevant to our times. One thinks of the television networks, and especially CNN, for their fawning coverage

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the butcher's bill once victory was achieved. Said Cobden, surveying the results of one "victorious" war:

> Now what do we see in London? Twenty or thirty thousand unemployed workmen. Why are they unemployed? You don't find that the newspapers connect cause and effect. They are unemployed because capital is scare. Who will lay out his money in building houses, to pay him at a rate of 6, or 7, or 8 percent, if he can get that percentage for the money he puts in the banks? Consequently there is no money being invested in buildings, because you have now such a high rate of interest. And why is there such a high rate of interest? Because the floating capital of the country has, during the last two or three years, been wasted in sudden and extraordinary expenses. But you don't see your newspapers, that were bawling for the war, honestly tell the people in London that the reason that they are suffering want of employment is that this floating capital, which is always a limited quantity—the floating capital which sets all your fixed capital in motion—has been exhausted, wasted by the course that has been pursued."[23]

Think of the aftermath of George Bush's Gulf War of 1990, and of presidential candidate Bill Clinton's 1992 ability to exploit America's weak economy.[24] Cobden would have easily analyzed and criticized the American welfare–warfare complex as well as the effect of runaway government spending and its by-product, a huge national debt, something he frequently criticized.[25] Once a pattern of war and debt is established, Cobden warned, interventionism and great power politics become the norm.

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of the recent Gulf War. Anchor people became cheerleaders for murderous policies. I also think of David Halberstam's much celebrated *The Best and the Brightest* (New York: Random House, 1972). Few Americans seem to know that this former *Times* man was part of a hawkish press that in the early 1960s called for America to make a stand in Vietnam against Communism. See Deborah Shapley's *Promise and Power: The Life and Times of Robert McNamara* (Boston: Little, Brown, 1993), p. 253.

[23]Richard Harbut Dawson, *Richard Cobden and Foreign Policy* (London: MacMillan, 1926), pp. 119–20.

[24]Bill Clinton, *Putting People First: How We Can All Change America* (New York: Times Books, 1992).

[25]Cobden, *The Political Writings of Richard Cobden*, vol. 1, p. 113. Cobden warns that "unreflecting minds" never consider the consequences if Britain were ever "unable to meet the interest on the debt." That's something Americans ought to think about today when we consider our own massive red ink. See *The Bipartisan Commission on Entitlement and Tax Reform* (Washington, D.C.: Government Printing Office, 1994), p. 79, which graphically illustrates our government's $14 trillion in unfunded liabilities. Within 15 years, the commission warns, entitlement spending will eat up the whole federal budget. Another useful book detailing runaway spending is Alfred L. Malabre, *Beyond Our Means: How America's Long Years of Debt, Defaults and Reckless Borrowing Now Threaten to Bankrupt Us* (New York: Random House, 1987).

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As Cobden wrote in 1836,

> Our history during the last century, may be called the tragedy of British intervention in the politics of Europe; in which princes, diplomatists, peers and generals, have been the authors and actors—the people the victims; and the moral will be exhibited to the latest posterity in 800 millions of debt.[26]

These high levels of debt, Cobden said, have to be supported by higher and higher levels of taxation. The average person is impoverished paying for these special interests, whether they are government contractors or military costs or favored manufacturers or farmers who receive protection or Sam Donaldson and his millions in farm subsidies.[27] The goal of the special interests, said Milner Gibson, a leader of the Manchester School, is:

> to get possession of men that we may make them work for our own profit, or to take possession of the fruits of their labour is equally and always slavery; there is no difference but in the degree.[28]

This economic misery caused by out-of-control government spending eventually generated schemes by reformers to use the state, which created the problem by its aggressive foreign policy, to eradicate poverty. The war in Vietnam was fought at the same time that Lyndon Johnson fought his war on poverty. Both were futile and led the nation to disaster, and to an endless cycle of more government programs to correct previous rounds of programs. However, Cobden had little use for patronizing government welfare schemes, believing it was better for working people not to become dependent on government largesse.

> I do not partake of that spurious humanity which would indulge in an unreasoning kind of philanthropy at the expense of the great bulk of the community," he wrote in a letter early in his public career. "Mine is the masculine species of charity, which would lead me to inculcate in the minds of the labouring classes the love of independence, the privilege of self-respect, the disdain of being patronized or petted, the desire to accumulate, and the ambition to rise. I know it has been

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[26]Cobden, "The Balance of Power," in *The Political Writings of Richard Cobden*, vol. 1, p. 196.

[27]Sir Louis Mallet, intro. to *The Political Writings of Richard Cobden*, vol. 1, p. xii.

[28]Nicholas C. Edsall, *Richard Cobden, Independent Radical* (Cambridge, Mass.: Harvard University Press, 1981), p. 424. This Cobden scholar states that British liberalism in the late nineteenth century would change from an individualist strain to one of paternalism, a development that would have shocked Cobden and other Manchester School members. Writes Edsall, "Suspicious of the power and the profligacy of the state, he could not have accommodated himself to the social welfare liberalism of the late twentieth century."

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> found easier to please the people by holding out and flattering and delusive prospects of cheap benefits to be derived from Parliament rather than by urging them to a course of self-reliance, but, while I will not be the sycophant of the great, I cannot become the parasite of the poor.[29]

THE HISTORY AND PHILOSOPHY OF MANCHESTERISM

The Manchester School's greatest period of influence was in the early and mid-Victorian periods, roughly 1835–1874,[30] which began with the publication of Cobden's first great pamphlet, *England, Ireland and America*.[31] This four-decade period coincided with the high-water mark of laissez faire and anti-imperialism in England. The peace party carried on the principles of Adam Smith and limited government. Of course, the members of this group weren't the first thinkers to make the connection between peace and liberty, or who saw free trade as a vital part of this equation of prosperity.

Philosophers David Hume, Immanuel Kant,[32] and Baron de Montesquieu,[33] among others, have depicted trade as a moderating factor that deters wars and leads people to love peace for the prosperity it brings. Perhaps the most well-known statement of the idea is Hume's comment that calls for his countrymen to put aside centuries of nationalistic prejudices in the interests of promoting an international prosperity:

> I shall therefore venture to acknowledge that, not only as a man, but as a British subject, I pray for flourishing commerce of Germany, Spain, Italy, and even France itself. I am at least certain that Great Britain and all those nations would flourish more, did their sovereigns and ministers adopt such enlarged and benevolent sympathies toward each other.[34]

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[29]Hirst, *Free Trade and Other Fundamental Doctrines of the Manchester School*, p. xii.

[30]Taylor, *The Trouble Makers*.

[31]Richard Cobden, *England, Ireland and America* (Philadelphia: Institute for the Study of Human Issues, 1978).

[32]See Immanuel Kant, *The Philosophy of Kant* (New York: Modern Library, 1982), p. 455, where he says:

> It is the spirit of commerce which sooner or later takes hold of every nation. For since the money power is perhaps the most reliable among all the powers subordinate to the state's power, states find themselves impelled (through hardly by moral compulsion) to promote the noble peace and try to avert war by mediation whenever it threatens to break out anywhere in the world.

[33]Baron de Montesquieu, in *The Spirit of The Laws*, vol. 1, p. 316, said, "Ou il a du commerce, Il y a des moeurs douces" ("Where there is commerce, there are good manners").

[34]David Hume, *Essays: Moral, Political and Literary* (Indianapolis, Ind.: Liberty Classics, 1987), vol. 1, part 2, no. 6.

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A nineteenth-century supporter of the Manchester School put the issue more crudely: "Men think twice before they cut the throats of those who are perpetually filling their coffers."[35]

The Manchester School should be credited with taking these ideas and molding them into a coherent philosophy. Capitalism came to represent peace and "the death of war," says one philosopher of liberty. "Richard Cobden," he writes, gave this spirit "its lofty moral tone, and gave Britain her abiding interest in peace."[36]

Some of these ideas were put into effect by a few of the governments of early- and mid-Victorian England. That these victories were ultimately reversed by "the Socialists of all parties"[37] is not an argument against Manchesterism, which produced many victories for peace and prosperity. The Manchester School made significant contributions to classical-liberal traditions, contributions which many Americans today lamentably have forgotten or never learned in state schools.[38]

The ignorance of the benefits and responsibilities of liberty is because Americans have become conditioned to depending on the leviathan state for entitlements while supporting or at least ignoring it in its frequent battles with foreign foes. But it is this myopia that blinds many Americans to the link between war and collectivism as well as the connection between free markets and peace. The Manchester School faced these problems before the American Old Right, and before the recognition of the military–industrial complex by a lame duck president who, in his farewell address, understood its wastefulness, but apparently had lacked the resolve to dismantle it.[39] American libertarians for the last

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[35]Lord Hobart, *The Mission of Richard Cobden* (London: Cassell, 1867), pp. 18, 36.

[36]Bernard Porter, *Britain, Europe and the World, 1850–1982: Delusions of Grandeur* (London: George Allen, 1983), p. 20.

[37]F.A. Hayek, *The Road to Serfdom* (Chicago: University of Chicago Press, 1994), from the dedication.

[38]John Stuart Mill, in *On Liberty* (New York: Norton, 1975), pp. 94–95, argues,

> A general state education is a mere contrivance for moulding people to be exactly like one another and the mould in which it casts them is that which pleases the predominant power in the government whether this be a monarch or a priesthood, an aristocracy, or the majority of the existing generation.

Indeed, one could argue that the conformity bred by state education is a *sine qua non* if a nation is to become an empire. Is not the political correctness taught in our public schools part of this? See Richard Bernstein, *Dictatorship of Virtue* (New York: Random House, 1994).

[39]Stephen E. Ambrose, *Eisenhower: Solider and Statesman* (New York: Simon and Shuster, 1989), p. 543.

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few generations have averred that certain business and labor interests were anything but enemies of each other. Critics of the welfare–warfare state note that big business and labor interests, supposedly enemies, often are baying for the same quotas, subsidies, and protection, using the major political parties to achieve their goals.

The Manchester School, with a few exceptions, was suspicious of the two major parties of its time, the Whigs and the Tories.[40] Cobden hoped for the creation of a new middle-class political party that would stand against the pro-war, pro-empire elements in both parties. The Manchesterities noted that a select group was always pining for protection as well as for war. Bright called the British Empire, and the wars it inevitably engendered, "nothing more than a giant system of outdoor relief" for the rich and the aristocracy.[41] It was the sons of the nobility who were the generals, governors, and administrators of this vast empire. Cobden called for the masses—the middle and working classes—to end the aristocratic sport of war:

> The middle and industrious classes of England can have no interest apart from the preservation of peace. The honours, the fame, the emoluments of war belong not to them; the battle-plain is the harvest-field of the aristocracy, watered with the blood of the peace.[42]

War was very rarely justified, and national-security concerns were usually a sham, the Manchester School contended. In his pamphlet *England, Ireland and America*, Cobden even questioned whether Britain was in danger even at the height of Napoleon's power. He contended that, despite all Napoleon's land victories and attempted economic blockades, Britain always maintained control of the sea lanes, and therefore was never in danger. Indeed, he argued that at the apex of Napoleon's power, trade with Britain, as an island nation, was only minimally affected.[43] Once again, the sham of national security concerns and the war

[40]In 1830, the Tory Party was officially reorganized as the Conservative Party, but kept the nickname "Tory" even up to today. In 1868, the Whigs officially adopted the name Liberal Party, althuogh the term "liberal" had been used to describe reformist Whigs since the 1830s.

[41]G.M. Trevelyan, *The Life of John Bright* (London: Constable, 1913), p. 274.

[42]Cobden, *The Political Writings of Richard Cobden*, vol. 1, p. 34.

[43]Cobden, *The Political Writings of Richard Cobden*, vol. 1, p. 12. Cobden's point was that trade with Europe declined a mere 7.5% at the height of the blockade. Indeed, numerous historians have made note that a huge black market continued between England and France during the war, and that Napoleon's quartermasters were often forced to resort to the black market and buy British shoes! See W. Durant, *The Age of Napoleon* (New York: Simon and Shuster, 1973), p. 210.

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scare were used to pervert domestic and foreign policies, according to the Manchester School.

The peace party held that the Corn Laws were designed by the aristocratic farming interests to keep the price of food artificially high.[44] Corn Law supporters argued that protecting farmers was a national-security concern, and that home-grown food would ensure plentiful stocks of grains in case some new Napoleon tried to strangle Britain again by declaring that Europe could not trade with her.[45]

But Adam Smith, writing of the Corn Laws, and noting that they were designed to increase the production of food, had warned that they generated more problems than they solved. "Famines are always caused by the supposed remedies for dearths applied by government." According to Smith, tt was "the violence of government" that "distorted markets."[46]

Henry Ashworth, a member of the Manchester School, argued that the Corn Laws were "a flagrant scheme of the landlords to enrich themselves by a legal authority which oppressed all other portions of the community."[47] These were another method of getting all of society's taxpayers to pay for the blunders of a few well-connected men.[48]

Still, Manchesterism was more than simply a set of criticisms, or a mere exposition of *The Wealth of Nations,* or an attempt to reduce or stabilize the price of bread. It was a philosophy that held that free trade would help integrate economies, reducing the likelihood that nations would go to war as they

[44]Willliam D. Grampp, *The Manchester School of Economics* (Stanford, Calif.: Stanford University Press, 1960), pp. 44–45.

[45]John Morley, *The Life of Richard Cobden* (London: MacMillian, 1903), vol. 1, pp. 162–65.

[46]Smith, *The Wealth of Nations,* book 4, p. 563.

[47]Henry Ashworth, *Recollections of Richard Cobden* (London: A.W. Bennett, 1866), p. 10.

[48]Turgot, a physiocratic economist who had a profound influence on Adam Smith, wrote that many businessmen are ardent protectionists. Turgot, quoted in Murray N. Rothbard, *Economic Thought Before Adam Smith,* vol. 1 of *An Austrian Perspective on the History of Economic Thought* (Aldershot, England: Edward Elgar, 1995), p. 389, wrote:

> There is no merchant who would not like to be the sole seller of his commodity. There is no branch of trade in which those who are engaged in it do not seek to ward off competition, and do not find sophisms to make people believe that it is in the State's interest to prevent the least interest from abroad, which they most easily represent as the enemy of the national commerce. If we listen to them, and we have listened to them too often, all branches of commerce will be infected by this kind of monopoly.

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grew dependent on one other. In addition to grains, the Manchester School wanted to push for complete freedom of commerce, because this would mean

> a community of interests which would grapple nations to each other with the hooks of steel, and an increase of personal intercourse between their citizens—the sovereign remedy for the self-complacent nationalism which is the greatest obstacle to political association.[49]

As people became more familiar with "foreigners," they would no longer be foreigners, but business associates, and perhaps even friends. The likelihood of war would decline, and former enemies, like England and France, would consider some kind of association. Other nations would be encouraged to do the same. Regions would join into one common market. These developments would lead to mutual disarmament and a reduction in taxes. Manchester's goal was a more peaceful world, a world too busy with business to spend much time dreaming up new weapons systems. Austrian economist Ludwig von Mises, in analyzing Manchesterism, wrote

> In such a world without trade and migration barriers, no incentives for war or conquest are left. Fully convinced of the irrefutable persuasiveness of the liberal ideas, they dropped the notion of the last war to abolish all wars.[50]

The assumptions of the Little Englanders were simple. Periods of free trade promote internationalism. The freest movement of goods, services, and people lead to periods of peace (Western Europe in the post-World-War-II era as it moves toward economic as well as political integration). Protectionist eras result in closed economies and heightened nationalistic feelings, such as existed in the United States and large parts of Europe and Asia in the 1930s. In that decade, fascist governments, as well as democratic ones, erected trade barriers. These high-tariff eras usually lead to economic calamity and, after that, war.[51]

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[49]Hobart, *The Mission of Richard Cobden*, p. 16.

[50]Ludwig von Mises, *Human Action* (Chicago: Regnery, 1962), p. 823.

[51]Almost all economists agree that the Smoot–Hawley tariff contributed to the Great Depression, leading to a worldwide tariff war. However, Jude Wanniski, in his compelling book *The Way the World Works* (New York: Basic Books, 1978), argues that it was the primary cause of the depression because investors and nations anticipated its passage and the damage it would do to the world economy. Before it was signed into law, hundreds of economists warned President Hoover it would be disastrous. Once effective, the onerous tariff drew protests from around the world and, of course, more tariff walls were constructed in retaliation. See the chapter in Wanniski's book, "The Stock Market and the Wedge." On tariffs and wars more generally, see Hobart, *The Mission of Richard Cobden*, pp. 16–24.

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MANCHESTERISM IN THE EARLY VICTORIAN PERIOD

The Manchester philosophy, which began as a campaign against tariffs on grains and broadened into a set of ideas for foreign and domestic policies, seemed very popular on the eve of the Crimean War in the winter of 1853–54. Only eight years before, Bright and Cobden had been the toast of the working and middle classes. Cobden was praised by one lame-duck prime minister, Conservative Sir Robert Peel, and offered a cabinet post by the incoming prime minister, Lord John Russell, a Whig. Cobden's victories over food taxes made him a popular man who could help make a ministry strong with the middle classes. Cobden had reformed the Anti-Corn-Law League in the 1830s, fighting and winning the battle for free trade in the next decade. The abolition of these onerous duties on food was a boon for an industrial nation that depended on imported grains.[52] Cobden converted a Conservative prime minister, Peel, who had previously supported these tariffs. Said Peel after one of Cobden's devastating parliamentary speeches in favor of free trade: "You must answer him. I cannot."[53] Cobden, after bitter exchanges with Peel during the Corn Law debates, eventually reconciled with him.[54]

This conversion cost Peel his ministry and his leadership of the Conservative Party,[55] but before he resigned, he praised Cobden as the man most responsible for ending the Corn Laws.[56] Cobden wanted the Peelites, the renegade Conservatives who voted for free trade, to join the Manchester School in forming a new middle-class party.[57] The Peelites were an independent force because Disraeli had read Peel out of the Conservative Party when Peel embraced free trade. Unfortunately, Peel died after an accident before the new party could be formed. It is not clear that Peel would have accepted Cobden's invitation, but Peel and his followers, who frequently clashed with the war party headed by Palmerston, were moving in the direction of Manchesterism. Peel was a classical liberal[58] who opposed Palmerston's interventionist foreign policies.

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[52]John Morley, *The Life of Richard Cobden*, vol. 1, p. 344.

[53]Norman Gash, *Sir Robert Peel* (Totowa, N.J.: Rowan and Littlefield, 1972), p. 471.

[54]See Morley, *The Life of Richard Cobden*.

[55]Walter Bagehot, "The Character of Sir Robert Peel," in *Bagehot's Historical Essays* (New York: New York University Press, 1960), pp. 180–213.

[56] Morley, *The Life of Richard Cobden*, vol. 1, pp. 388–89.

[57]Morley, *The Life of Richard Cobden*, vol. 1, pp. 390–400.

[58]Bagehot, "Mr. Disraeli aas a Member of the House of Commons," in *Bagehot's Historical Essays*, p. 292.

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Peel, joined by Cobden and William Gladstone, had argued against Palmerston in the famous Don Pacifico parliamentary debate in 1850. Palmerston, as foreign minister, had ordered the blockade of part of Greece because he complained that the damage claims of one British subject had not been promptly satisfied. This policy of war drew plenty of criticism. Peel asked,

> If Britain should claim the right to interfere, in the interests of self-determination, in the affairs of foreign states, how could she deny to France the right to introduce Republican institutions in neighboring states?[59]

Palmerston defended the government's actions:

> As the Roman in days of old held himself free from indignity when he could say Civis Romanus sum, so also a British subject, in whatever land he may be, shall feel confident that the watchful eye and strong arm of England will protect him against injustice and wrong.[60]

Over the next decade, some of Peel's former supporters joined with the Whigs to form the Liberal Party.[61] Many of them stood with the Manchester School on various issues. William Gladstone, who would serve as prime minister four times, was the greatest of the Peelites. He had begun his political career as a Tory Protectionist, became a Peelite, and was sympathetic to many of the ideas of the Manchester School, especially during the mid- and late-Victorian periods. However, in his second ministry (beginning in 1880), Gladstone presided over a military intervention in Egypt, a move which led to Bright's resignation from the cabinet. But before his death in 1898, Gladstone returned to many Manchester principles. He objected to the Liberals' move toward Socialism and Imperialism in the 1880s and 1890s. Gladstone resigned as prime minister in 1894 because he opposed excessive military spending, something he had been famous for slashing.[62]

Nevertheless, the free-trade revolution made by Cobden with the backing of Peel in the 1840s remained throughout the

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[59]According to J.B. Conacher, *The Peelites and the Party System, 1846–52* (Hamden, Conn: Archon Books, 1966), p. 66, "Above all, the typical Peelite was a free trader, who generally accepted the current orthodoxy of the political economists, and here his view were in many respects similar to those of the Manchester School." Also see Murray N. Rothbard, *The Mystery of Banking* (New York: Richardson and Snyder, 1983), for a description of Peel's philosophy.

[60]Quoted in Donald Southgate, *The Most English Minister* (London: Macmillan, 1966), p. 272. See also Jasper Ridley, *Lord Palmerston* (New York: St. Martin's Press, 1966).

[61]Conacher, *The Peelites and the Party System*, p. 66.

[62]See Peter Stansky, *Gladstone: a Progress in Politics* (Boston: Little, Brown, 1979).

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mid-Victorian Era. Free trade was very popular. In the so-called "hungry 40s," working- and middle-class Englishmen had paid a high percentage of their income for food, so untaxed food was a boon applauded by the public.[63] Once back in power, Disraeli and the Conservatives made no move to restore the Corn Laws.

MANCHESTERISM IN FOREIGN AFFAIRS

The Manchester School's ideas on foreign policy could be summarized in three words: "no foreign politics."[64] Plenty of trade and cultural relations between peoples, but no military interventions and, most of all, no wars outside of defensive ones. This idea was taken from the United States, an idea championed in George Washington's Farewell Address.[65] Critics have tried to brand this philosophy "isolationism."

Cobden, as the leader of the Manchester School, was anything but isolationist. In fact, because of his many attempts to integrate economies and avert wars, he came to be known as "the International Man." Cobden was well received at most European courts because he was seen as the man who was opening up British markets to foreign goods.[66] He taught himself French in order to facilitate his work of lessening tensions between Britain and France. Patriotism, to the Manchester School, was not "my country right or wrong"; it called for people to answer to moral principles and use classical economics to create a better world. The natural liberty of commerce could supersede jingoism.[67] Manchesterism was the opposite of xenophobia. One historian has aptly characterized the philosophy as "a passionate internationalism opposed to all orthodox patriotism."[68]

MANCHESTER'S WARNING OF A THREAT TO BRITAIN

For Cobden, the danger to England was real, but it wasn't military; it was economic, political, and social. The original-

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[63]Hirst, *Free Trade and Other Fundamental Doctrines of the Manchester School*, intro..

[64]Taylor, *The Trouble Makers*.

[65]George Washington's Farewell Address. Here's the passage that impressed Cobden and which he included at the outset of *England, Ireland and America*: "The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible."

[66]J. Hobson, *The International Man* (New York: Barnes and Noble, 1968), p. 257.

[67]Hobson, *The International Man*, p. 311.

[68]John Vincent, *The Formation of the Liberal Party, 1857–68* (New York: MacMillan, 1972), p. 33.

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intent, limited-government philosophy of the American constitution was why Cobden and Bright admired the United States of the early- and mid-nineteenth century. In their time, the United States, a developing industrial nation with an almost non-existent military establishment and a generally non-interventionist foreign policy, posed the greatest threat to Britain. The threat, said Cobden, wasn't military, but was to Britain's mid-Victorian industrial supremacy. While Britain wasted millions of pounds, and wasted the lives, as well as talents, of its best people on crazy wars, the United States was becoming a great industrial nation that would overtake Britain. Nations that followed pacific foreign policies, that paid attention to the lessons of Adam Smith, especially his free-trade and anti-imperialistic ideas, would see the greatest progress, Cobden predicted.[69] One thinks of Switzerland today. That nation has been spared the plague of war, has high living standards, low taxes, and a strong currency.[70]

The business of business made a people great, not the number of warships a nation could float, Cobden said.[71] American leaders in the early- and mid-nineteenth century apparently held these principles. During the War Between the States, the U.S. assembled a large navy of ironclads, by some accounts the largest in the world, and then proceeded to astonish the aristocratic leadership of Britain by putting most of it in mothballs once the war was over.[72] The American anti-militarist tradition continued until the end of World War II. The Truman administration, following the lead of the Roosevelt administration, laid the foundations of the national-security state that we have lived with for the last half century.[73]

MANCHESTERISM AND COLONIAL POLICY

Cobden, the most radical member of the Manchester School, wanted nothing less than the breakup of the British Empire.

[69]See Cobden, *The Political Writings of Richard Cobden*, vol. 1. pp. 76–119.

[70]Charles Adams, *For Good and Evil: The Impact of Taxation on the Course of Civilization* (New York: Madison Books, 1993). The book, a superb recounting of how taxation has destroyed some economies and helped others, contains a fascinating chapter on Switzerland, a nation where tax increases go to referendum (they rarely are approved), and in which the head of the country rides public transportation to work. Shades of Jefferson and rooming house dinners.

[71]See Cobden, *England, Ireland and America.*

[72]Walter R. Herrick, Jr., *The American Naval Revolution* (Baton Rouge: Louisiana State University Press, 1966), p. 2.

[73]Raimondo, *Reclaiming the American Right.*

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What was the use of it? It cost more to protect than it generated in business. British possessions in India meant she had to worry about Afghanistan, and that led to clashes with the Russians, who were concerned about their Asian borders. Where and when would it all end? The nations of the empire should either be broken up or given "responsible government," which meant allowing colonists or native peoples domestic self-rule until they would eventually need no direction from London, and would be free to cut all ties if they so desired. Cobden noted that Britain had lost its American colonies, but the U.S. had become a great trading partner; both nations were better off. The bonds between the two nations were stronger because they were voluntary ones. Still, Cobden's writings represent the most radical element of the Manchester School's policy on colonies, which was of two minds—either they should be encouraged and helped to govern themselves, or they should be given immediate freedom. How could Britain govern countries half way around the world, Bright asked: "England cannot govern distant nations—our statesmen have no time and no principles. . . . How can they direct the government of 20 nations in India?"[74] Bright was willing to try, but only in the best interests of the colonists, and not for one minute more than the colonists wanted to remain with Britain.

Britain should spend little on colonial defense establishments, Cobden said, because to do otherwise would only draw the mother country into a series of ridiculous wars, cause burdensome taxation, and delay domestic reforms to extend the franchise or the development of a system of national education. Bright, for example, was against adding troops to the Canadian defense establishment because it would only be more likely to provoke war with the United States. If Canadians wanted more defense, let them pay for it themselves, he said.[75]

SOME ACCOMPLISHMENTS OF THE SCHOOL

How can you gauge the value of avoiding a disaster, which is how the Manchester School defined war? It can't be measured. Manchesterism meant the application of commercial principles that stopped Britain's war party on several occasions, undeni-

[74]James L. Sturgis, *John Bright and the Empire* (London: Athlone Press, 1969), p. 45.

[75]Sturgis, *John Bright and the Empire*, p. 46. Also see James Morris, *Heaven's Command: an Imperial Progress* (New York: Harcourt, Brace, Jovanovich, 1973), p. 25, where he quotes Cobden on the colonies: they "serve but as gorgeous and ponderous appendages to swell our ostensible grandeur without improving our balance of trade."

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ably exerting influence in the Victorian Era.[76] The extent of Cobden's influence is the subject of debates among historians, but the fact that he and his allies helped shape domestic and foreign policies in the mid-Victorian period is indisputable.[77]

Manchesterism's effect was felt among the Whig, Peelite,[78] and Liberal parties, as well the as the Radical faction of Parliament. Even the protectionist Conservative party after Peel felt its influence.[79] Cobden said his group never constituted a traditional political party because it had no offices and sinecures to offer; its principles called for retrenchment in government expenditures,[80] not exactly the kind of recruitment vehicle to attract the George Washington Plunkitts of this world.[81]

Other great achievements of this informal group of radical MPs were ending duties on newspapers and the successful negotiation of a free-trade treaty with France in 1860, thus diffusing tensions between ancient enemies. Palmerston, who, at the same time, was arguing for expanded defense spending to protect against a supposed French threat, said "at the bottom of his (French emperor Louis Napoleon's) heart, there rankles a deep and inextinguishable desire to humble and punish England."[82]

Cobden believed these warlike remarks were designed to ruin the completion of the trade treaty. Fortunately, Palmerston failed, and the Cobden–Chevalier trade treaty helped open up new markets, while at the same time reduced centuries of hatred between Britain and France, hatred which had threatened to erupt into another war. Cobden, given plenipotentiary powers and acting with the encouragement of Gladstone, who was Chancellor of the Exchequer, negotiated a free-trade treaty that trumped the aggressive Palmerston, who had to be pressured into signing it by the rest of the cabinet.[83]

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[76]Kenneth Bourne, *The Foreign Policy of Victorian England, 1830–1902* (Oxford: Clarendon Press, 1970), pp. 90–122. Also see Taylor, *The Trouble Makers*, as well as Richard Millman, *British Foreign Policy and the Coming of the Franco–Prussian War* (Oxford: Clarendon Press, 1977), pp. 32 and 128.

[77]Millman, *British Foreign Policy*; also Taylor, *The Trouble Makers*.

[78]In 1846, while Peal was Prime Minister, his repeal of the Corn Laws split the Conservative Party into the Peelites and the followers of Disraeli.

[79]Bourne, *The Foreign Policy of Victorian England*.

[80]Cobden, *England, Ireland and America*, pp. 99–103.

[81]See William Riordon, *Plunkitt of Tammany Hall: A Series of Very Plain Talks on Very Practical Politics* (New York: Dutton, 1963). Plunkitt's motto is "I seen my opportunities and took advantage of them."

[82]Jasper Ridley, *Lord Palmerston*, p. 427.

[83]Ashworth, *Recollections of Richard Cobden*, pp. 246–48.

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Cobdenite ideas persevered in both the cabinet and Parliament, as the Manchester School held that

> the French government have entered upon their new commercial policy not for the benefit of England, but from an enlightened appreciation of the advantages it would confer on the people of France. . . . The present treaty will inaugurate a new era in the commercial intercourse of France and England, and it will only require a few years to develop that state of mutual dependence which forms the solid basis for the peace and happiness of nations.[84]

Trade between the two nations boomed as English people enjoyed French wines and the French enjoyed British clothing.[85] Differences over Italian unification lessened, and talk of a French invasion faded.

Cobden and Bright were also part of the anti-intervention forces during the American War Between the States that kept Britain from recognizing the South and providing it aid that would have probably changed the outcome of the war.[86] Cobden was revolted by the slaughter of the war, but came to sympathize with the North once it had committed itself to emancipation.[87]

Some critics of Manchesterism have portrayed it as nothing but a series of utopian criticisms and ideas.[88] Palmerston complained that, if Britain were invaded, Cobden and Bright would try to figure out if it were more economical to surrender or fight the invaders.[89] But Cobden's philosophy, along with much of classical liberalism, is also criticized because it represents a strand of "negative liberty."[90] To some people, peace, low taxes, reduced government expenditure, and a mind-your-own-business approach are a surrender of government responsibility. These people believe that governments are in business to create utopia. Freedom for citizens can only be achieved through the positive

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[84]Ashworth, *Recollections of Richard Cobden*, pp. 246–48.

[85]Ridley, *Lord Palmerston*.

[86]David Donald, *Charles Sumner and The Rights of Man* (New York: Knopf, 1970), pp. 35–37.

[87]Donald, *Charles Sumner and The Rights of Man*, pp. 116, 134, and 310.

[88]See Isaiah Berlin, *The Crooked Timber of Humanity: Chapters in the History of Ideas* (New York: Knopf, 1991), who believes the benefits of free trade were exaggerated.

[89]Ridley, *Lord Palmerston*, p. 427.

[90]F.A. Hayek, *The Constitution of Liberty* (Chicago: Gateway Edition, 1960), pp. 11–21. Also see Isaiah Berlin, *Four Essays on Liberty* (New York: Oxford University Press, 1982), pp. 122–23.

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actions of the state, say modern liberals and socialists, such as T.H. Green and Harold Laski, whose works are imbued with the ideas of Rousseau and Hegel.[91] Indeed, in the late Victorian period, the philosophy of "constructionism" began to push out Manchesterism and other classical-liberal ideas,[92] just as Americans today, more and more, call for the extension of entitlements and downplay all considerations of liberty.

But what did Manchesterism offer? Mostly the idea that wars avoided through just settlements were a blessing,[93] classical principles that removed impairments to a free economy were good, and that modest government budgets that cut taxes were a boon to all members of society. These ideas were ridiculed by some, but one of the men sympathetic to many Manchester ideas, Gladstone made the case for this philosophy after most of its work had been done:

> The great measures that have been passed during the last twenty years by the British Legislature have conferred incalculable blessings on the whole community, and particularly on the working classes, by unfettering the trade and commerce of the country, cheapening the essentials of our daily sustenance, placing a large proportion of the comforts and luxuries within our reach, and rendering the obtainment of knowledge comparatively easy among the great mass of the sons of toil.[94]

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[91]Hayek, in *The Constitution of Liberty*, p. 444, quotes Victorian leader Joseph Chamberlain in the 1880s to illustrate how classical liberalism was becoming "constructionism":

> When government was represented only by the authority of the crown and the views of a particular class, I can understand that it was the first duty of men who valued freedom to restrict its authority and to limit its expenditure. But all that has changed. Now government is the organized expression of the wishes of the people and under these circumstances let us cease to regard it with suspicion. Suspicion is the product of an older time, of circumstances which have long since disappeared. Now it is our business to extend its functions and to see what way its operations can be usefully enlarged.

[92]By 1880, even some so-called supporters of the Manchester School were feeling the influence of constructionism. In that year, the winner of the Cobden Essay wrote: "The truth of free trade is clouded over by the laissez-faire fallacy." And that "we need a great deal more paternal government—that bugbear of the old economists." Cited in Herbert Spencer, *The Man Versus The State* (Caldwell, Idaho: Caxton Printers, 1940), p. 107. Also see William Grampp, *The Manchester School of Economics* (Palo Alto, Calif.: Stanford University Press, 1960), p. 132.

[93]Hirst, *Free Trade and Other Fundamental Doctrines of the Manchester School*, introduction; also J. Salwyn Schapiro, *Liberalism: Its Meaning in History* (Princeton, N.J.: Van Nostrand, 1958), pp. 42–43.

[94]Stansky, *Gladstone: a Progress in Politics* , pp. 97–98.

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But the Manchester School argued that all this improvement was dependent on peace. Indeed, Cobden's writings often question whether most of the wars fought by Britain were necessary. The Manchester School favored arbitration to resolve disputes between nations. This was an era in which Britain and the U.S., at odds over a Confederate raider which the Home Secretary had mistakenly let leave British waters, a raider that then destroyed many Union ships, eventually decided to let arbitrators rule on who was at fault.[95] Arbitration was the method that the Manchester School hoped every nation would commit itself to, instead of a war. In this case, the idea, woolly as critics believe it to be, actually worked. The U.S. and Britain avoided war. The British government, in Gladstone's first ministry (the so-called great ministry of 1868–74), paid the huge damages assessed by the arbitrators.[96] Again, as in the dispute over naval armaments with France or the tempting prospect of throwing her weight around in the American Civil War, Britain, in the throes of Manchesterism, had found a peaceful way of settling matters. But sandwiched between their two rounds of victories—the triumph of Free Trade in 1846 and the considerable impact of Manchesterism in the 1860s and early 70s—was a period when the this philosophy seemed dead.

THE CRIMEAN WAR

The Crimean War, which began in 1854, severely tested the power of this pacific philosophy. Would Cobden and Bright be good Englishmen, or would they hold to their principles? It all began in an inane dispute over which religious group would guard the Holy Lands in Jerusalem,[97] and spread to a battle over the Danubian Principalities. This was another ridiculous war for Britain, Cobden believed,[98] and most historians agree. Here's one typical evaluation: "The Crimean War of 1854–55 now appears as one of the more stupid and useless of wars between the major European states."[99]

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[95]Alexander DeConde, *A History of American Foreign Policy* (New York: Charles Scribner's Sons, 1970), pp. 282–83.

[96]See Stansky, *Gladstone: a Progress in Politics.*

[97]Alan Palmer, *The Banner of Battle: The Story of the Crimean War* (New York: St. Martin's Press, 1987), pp. 10–12.

[98]J.B. Conacher, *Britain and the Crimea, 1855–56* (Cambridge: Cambridge University Press, 1968), p. 58. Also see Cobden's "What Next—and Next?"

[99]William Yale, *The Near East: A Modern History* (Ann Arbor: University of Michigan Press, 1958), p. 73.

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For decades before the war, British nationalists had warned that Russia was going to control the Near East; that eventually she would come to dominate most of the world.[100] Even England would be in danger, they warned. Cobden treated these periodic invasion scares as moronic, just as more perceptive critics of American foreign policy during the Cold War dismissed warnings that the Russians were about to attack Alaska. Cobden argued that jingoists and journalists had been exaggerating the dangers of Russian power for generations.[101] Despite Cobden's criticisms, Britain and France, with some help from the kingdom of Sardinia, fought the Crimean War. They backed up the corrupt Ottoman Empire, which was lined up against the autocratic Czarist Empire. Toward the end of the war, the shaky Hapsburg Empire was ready to join the British and French, which led the Russians to sue for peace. Cobden maintained that no strategic British interests were at stake, so why should lives be wasted along with resources to prop up "the Sick Man of Europe,"[102] the Ottoman Empire.

Cobden wrote that this was another war waged to maintain the balance of power, a doctrine that obliged Britain to go to war whenever one nation in Europe became too powerful and threatened to overwhelm the continent. Although the idea sounds intriguing (like the New World Order?), Cobden contended that it meant that Britain would have to be involved in almost every war, no matter how small or distant, because any of them could affect her imperial interests in some way.[103] And, since many European powers in the nineteenth century had colonies in Asia, Africa, and America, there were plenty of opportunities for the balance of power to be disturbed.

SLEEP WALKING INTO DISASTER

The British government had seemed to drift into the Crimean War without reason or purpose,[104] much as Americans have

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[100]J.B. Conacher, *The Aberdeen Coalition, 1852–1855* (Cambridge: University Press, 1968), pp. 234–45.

[101]Hobson, *The International Man*, pp. 29–33.

[102]Palmer, *The Banner of Battle: The Story of the Crimean War*, p. 14.

[103]Cobden, *The Political Writings of Richard Cobden*, vol. 1, p. 194.

[104]Palmer, *The Banner of Battle: The Story of the Crimean War*, pp. 25–26; Conacher, *The Aberdeen Coalition*, pp. 1, 3, and 76; also see Jonathan Kwitny, *Endless Enemies: The Making of An Unfriendly World* (New York: Congdon and Weed, 1984), a book that points out that, under our strange foreign policies, former friends can easily become enemies and vice versa.

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drifted into various wars, police actions, and other frequent disputes in this century without a coherent justification, and in frequent contravention of the Constitution. British soldiers often had inadequate food, poor medical services, and rotten leadership. William Russell of the *London Times* sent back stinging battlefield dispatches questioning the intelligence of the leadership,[105] much as David Halberstam and other correspondents raised the ire of Presidents Kennedy, Johnson, and Nixon. By the way, many of those correspondents who won awards because of their Vietnam reporting were initially quite enthusiastic for the war, proving Cobden's warning that the press, and too often a credulous public swallowing press scare stories, will so often whoop up wars at the beginning of a war, only to become disillusioned later on.[106]

Nevertheless, the Crimean War was initially very popular, as many wars are at the outset, when they seem to cause little damage to the economy or when leaders are promising everyone will be home safe for Christmas. And the Manchester School representatives found themselves shouted down from public platforms.[107] Cobden and Bright were burned in effigy. Many Old Right writers and statesmen were driven out of public life in the 1940s and 50s for opposing NATO. Robert Taft lost the 1952 GOP presidential nomination to Dwight David Eisenhower, a moderate who would neither pull away from FDR's welfare state nor Truman's national security state.

THE WAR PARTY VICTORIOUS

Cobden, like those Americans who initially opposed our intervention in Vietnam, sensed that the nation was, at least for the time being, with the war party. He wrote to an associate that Britain was "suffering under the war madness—for it is

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[105]Phillip Knightley, *The First Casualty: from the Crimea to Viet Nam: The War Correspondent as Hero, Propagandist, and Myth Maker* (New York: Harcourt, Brace, Jovanovich, 1975), pp. 3–6. For a humorous yet accurate description of British military incompetence during the Crimean War, see George MacDonald Fraser's delightful novel, *Flashman at the Charge* (New York: New American Library, 1986). Also see *The Cambridge Modern History of Britain*, vol. 9, p. 486; H.C.F. Bell, *Lord Palmerston* (Chamden, Conn.: Archon Books, 1966), vol. 2, pp. 81–106.

[106]Kaiser Wilhelm II, in August 1914, told departing German troops that they would be home before the fall leaves had disappeared. Similar claptrap was fed to the populaces of the other nations in World War I. In a few years, a war disgust would set in and the public would question the wisdom of the policymakers. See B. Tuchman, *The Guns of August* (New York: Dell Paperback Edition, 1962).

[107]Read, *English Provinces*, p. 154; Grampp, *Manchester School of Economics*, p. 101.

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madness."[108] Some who had worked for free trade supported the drift into the Crimean War, a fact that led Cobden to write that they had misunderstood Manchesterism.

> But when I advocated Free Trade, do you suppose I did not see its relation to the present question [of peace], or that I advocated Free Trade merely because it would give us a little more occupation in this or that pursuit? No; I believed Free Trade would have the tendency to unite mankind in the bonds of peace, and it was that, more than any pecuniary consideration, which sustained and actuated me, as my friends know, in that struggle.[109]

The war went very badly for the British, but eventually, they returned home with a victory. However, it was a costly victory. It was the war that became famous for an insane waste of lives called the charge of the Light Brigade,[110] a military blunder made famous by a Tennyson poem.

Battlefield incompetence eventually changed the political current. The government of Lord Aberdeen was toppled, much as a previously popular though deceitful Lyndon Johnson became a political exile in his own country during the Vietnam War. Aberdeen, who came to lament the war,[111] was finished in politics. He was replaced as prime minister by Lord Palmerston, a bellicose Whig, after Parliament resolved to investigate the conduct of the war. Palmerston, the Manchester School's arch opponent who stood for interventionism almost everywhere, finally wound down the war.

As an additional gain for the war party, when Cobden and the Manchester School turned out Palmerston's government in 1857, a subsequent election found both Cobden and Bright, as well as Milner Gibson, another Manchester leader, defeated in parliamentary elections. Grenville wrote,

> Those who were once the idols of millions of people, and not without cause, have not only lost all their popularity, but are the objects of execration, and can nowhere find a parliamentary resting place. No constituency will hear of them.[112]

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[108]Palmer, *The Banner of Battle: The Story of the Crimean War*, pp. 148 and 166.

[109]*Crimean War: Pro and Con*, N. Hunter, ed. (New York: Garland Pubishg, 1973).

[110]Keith Robbins, *John Bright* (London: Routledge, 1979), p. 109.

[111]Conacher, *The Aberdeen Coalition*, pp. 492–548. On p. 492, Conacher writes that "Lord Aberdeen's heart was never in the war." "The ex-prime minister (Aberdeen) was full of bitterness at having himself dragged into war," Cobden said. See Wendy Hinde, *Richard Cobden: A Victorian Outsider* (New Haven, Conn.: Yale University Press, 1987), p. 255.

[112]Charles Grenville, VIII, *A Journal of the Reigns of King George IV, King William IV and Queen Victoria* (Garden City, N.Y.: Doubleday, 1927), p. 108.

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PALMERSTONIANISM IN RETREAT

Although Palmerston, who lost power to the Conservatives after their 1857 electoral triumph, was eventually returned as prime minister in 1859, and would stay in power until the end of his life in 1865, a new, post-Crimean foreign policy came to dominate the cabinet and Parliament. Bright and Cobden, along with a number of allies, found new seats and were returned to Parliament. Palmerston felt compelled to try to buy off Cobden with a government post, telling him that he would be more effective if he joined the government. Palmerston, in trying to recruit Cobden, gave an interesting summary of how he had conducted policy. "You and your friends," he told Cobden,

> complain of secret diplomacy, and that wars are entered into with consulting the people. Now it is in the cabinet alone that questions of foreign policy are settled. We never consult Parliament till after they are settled. If, therefore, you wish to have a voice in these questions, you can only do so in the Cabinet.[113]

Cobden declined to join Palmerston's second ministry believing his most effective role was as a parliamentary critic who wasn't tied down by government, or by a major political party, or by the desire to retain a cushy office.[114] Still, Palmerston was compelled to include several Manchester men in his government, including Gibson as president of Board of Trade and Charles Villiers as president of the Poor Law Board. Several others in the ministry, like Gladstone, were sympathetic to Manchester ideas even if they didn't accept every principle. Gladstone had been Cobden's strongest supporter in the cabinet during the negotiation of the French trade treaty.[115]

Nevertheless, even though some historians deny that Manchesterism had any effective impact in this period, with one arguing that Manchesterism died with the Crimean War,[116] it's

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[113]Edsall, *Richard Cobden, Independent Radical*, pp. 326–27.

[114]Taylor, *The Trouble Makers*.

[115]P. Guedalla, *Palmerston* (London: Hodder and Stoughton, 1926), pp. 405–10. Also see Southgate, *The Most English Minister*, p. 459.

[116]John Vincent, *The Formation of the British Liberal Party, 1857–1868*. In an interesting set of essays, Vincent argues that there was little philosophical vision to the early- and mid-Victorian Liberal Party. The so-called triumphs of Manchester were by default, he argues. The non-interference policy arose "spontaneously, and not from either the proselytism or the political strength of the Manchester School. It was not a conversion, but an adjustment to circumstances" (p. 34). Maybe, but others would contend that Cobden and friends were, at least partly, creating these circumstances. Another criticism leveled at Manchesterism was that free trade

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clear the political climate was changing. Britain, which previously had been so ready to wage war, now started to pull away from European conflicts and re-think its foreign policy. If Manchesterism was dead or a minimal factor, as some historians argue, why would Lord Palmerston, the prime minister during most of the 1860s who thought the Manchester School represented a loony philosophy, have offered some of the peace men posts when he formed his second government in 1859, even though he knew they accepted office with the understanding that they would never accept intervention in Italy or in any other state where war broke out? And, if Manchesterism was dead in the 1860s, why would the bellicose Palmerston come to rely on the group's support during a critical vote in 1864?

The British started to follow a generally more pacific policy with the formation of Palmerston's new government.[117] Many European statesmen believed she no longer mattered in the balance of power. British public opinion, as well as that of the political elite, began to question the Crimean War, even though it had ended in triumph. Palmerston still blustered and talked about intervening in distant places, such as Poland, the United States, Italy, or Denmark, but ultimately he backed down—reluctantly—from all of these wars. In other places, like Japan and China, Britain still intervened, but this happened with little direction from London, and didn't represent the consensus of Parliament or the Cabinet. [118]

In the American Civil War, for example, Palmerston had ample justification for intervention after the Trent affair (an incident in which a reckless American naval officer had violated the neutrality of a British ship in order to carry off some Confederate delegates on a diplomatic mission to Europe),[119] yet he backed down, in part because of pressure from the monarchy, and

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was a sneaky way of imposing British industrial supremacy on the rest of the world. Britain was the first western nation to industrialize, so she had the most to gain from a free-trade system. This line of reasoning ignores the pacific goals of the Manchester School and its consistent attempts to prevent wars. Manchesterities were more than tariff reformers. For a statement of this critical view of The Manchester School from a neo-Marxist point of view, see Anthony Arblaster, *The Rise and Decline of Western Liberalism* (New York: B. Blackwell, 1984), pp. 260–63.

[117]Millman, *British Foreign Policy*; Kenneth Bourne, *The Foreign Policy of Victorian England 1830–1902, Selected Documents* (Oxford: Clarendon Press, 1976). Also Taylor, in *The Trouble Makers*, writes that "Cobden was the real foreign secretary of the early 1860s" (p. 64).

[118]Taylor, *The Trouble Makers*, p. 64.

[119]E.D. Adams, *Great Britain and the American Civil War* (New York: Longman, Green, 1925), vol. 1, pp. 219–22, 226, and 254.

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in part because the Manchester School was becoming more powerful. Given previous statements by Palmerston about "pushy Yankees," it's clear he would have liked to intervene, and that he would have been delighted to see the breakup of the United States.[120] In a war between Denmark and the German Confederation in 1864, a rehash of a long dispute in which Britain had acted as a mediator, again he talked of intervention, along with his foreign minister, Lord John Russell, but in the end he reversed himself when war broke out. One of the explanations of this volteface must include the potent effect of Manchesterism.[121]

THE HIGH-WATER MARK OF MANCHESTERISM

The Schleswig–Holstein War of 1864, a dispute over border territories between Denmark and the German Confederation, was a major embarrassment for Palmerston, Russell, and the war party.[122] Palmerston had told Parliament that "if Denmark were attacked she would not stand alone."[123] Palmerston and Russell believed British strategic interests in the Baltic required them to stop the German powers from swallowing the Elbe duchies. The Germans were led by the newly revived Prussia and its belligerent chancellor, Bismarck, who was in the process of uniting Germany.[124]

Over a decade before, the same dispute had happened during Lord John Russell's ministry, with Palmerston as foreign minister. Then, after war broke out, all the powers responded to Britain's warnings to stop fighting, attend a conference, and return territories to their status quo antebellum. However, by 1864, Palmerston, Russell, and the rest of the war party in the British government were ignored by the Germans. Britain became a nonfactor in European politics.[125] Russell was forced to admit, "I doubt whether the cabinet or the country are of yet ready for active inference."[126]

Neither the cabinet nor the country would ever be ready.

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[120]Bell, *Lord Palmerston*, vol. 2, pp. 273–75.

[121]Keith A.P. Sandiford, *Great Britain and the Schleswig–Holstein Question, 1848–1864* (Toronto: University of Toronto Press, 1975), p. 115. Also Taylor, *The Trouble Makers.*

[122]Spencer Walpole, *The Life of Lord John Russell* (New York: Greenwood Press, 1968), vol. 2, p. 388.

[123]Bell, *Lord Palmerston*, vol. 2, p. 363.

[124]Bell, *Lord Palmerston*, vol. 2, pp. 362–69.

[125]Sandiford, *Great Britain and the Schleswig–Holstein Question*, p. 115; also see Bell, *Lord Palmerston*, vol. 2, pp. 273–75.

[126]Walpole, *The Life of Lord John Russell*, vol. 2, p. 388.

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Russell had been blindsided by the anti-war forces, which were headed by the Manchester School and were solidly backed by the monarchy and public opinion.[127] As Lord Stanley, a Conservative peer, wrote,

> There is a struggle going on in the cabinet. Gladstone, Gibson and most of the rest are for peace, Palmerston for fighting. Lord P (Palmerston) wishes to be attacked, in order that our pressure may help him to overrule his colleagues.[128]

The Conservatives wouldn't help Palmerston. They smelled blood and hoped to topple him.

But the major parties were driven by more than elitist opinions. What pleased Cobden was that this time, unlike the Crimean War, popular opinion was on the side of peace. Petitions flooded Parliament calling for non-intervention. The monarchy, which during the Victorian period had an uncanny ability to sense what the public wanted, joined the general public. There was to be no Balaklava this time—no charge of the Light Brigade—because the British didn't have the horses.[129]

By the early 1860s, Cobden's party had successfully carried out reductions in defense expenditures. Gladstone, as Chancellor of the Exchequer under Prime Minister Palmerston, had pushed through these cuts, ignoring the possibility of war in the Baltic or almost anywhere else. Although she remained a great naval power, there was little Britain could have done to stop the new, dynamic Prussian Army. The whole British Army was down to about 200,000 men, about a third of which was stationed in India and couldn't be transferred to the Baltic quickly. By contrast, the Germans had 300,000 soldiers to put into battle. It is unlikely, wrote one historian of this war, that Britain could have "provided more than 50,000 troops to help the Danes."[130] There was no "blood and iron" in British foreign policy.

Britain, at the urging of Manchester School, had become enamored of tax cuts, pacific foreign policies, and classical economics. "If you want peaceful governments, reduce their budgets,"

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[127]Bell, *Lord Palmerston*, vol. 2, p. 363.

[128]Edward Henry Stanley, Earl of Derby, *Disraeli, Derby and the Conservative Party: The Political Journals of Lord Stanley, 1849–1869*, John Vincent, ed. (New York: Barnes and Noble, 1978), p. 218.

[129]Sandiford, *Great Britain and the Schleswig–Holstein Question*, on p. 115, writes that Gladstone's budget was "so obviously prepared in anticipation of peace, it couldn't stand the strain of war."

[130]Sandiford, *Great Britain and the Schleswig–Holstein Question*, p. 162.

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said economist David Ricardo.[131] For those who want to restore liberty in America today, these policies should be their guide. That philosophy prevailed in British ministries of the 1860s, both Conservative and Liberal,[132] with the result being peace and prosperity. Even some non-Peelite Tories had to pay tribute to this current. Lord Stanley, the foreign minister of a Conservative government in 1867, opposed the bombing of Canton in the Opium Wars, and wrote of a contemporary politician that "among the best points of Lord Grey's character is an inflexible adherence to the peace policy."[133] Lord Clarendon, foreign minister of the Liberal government that was handing over its power to the Conservatives in 1867, said of Lord Stanley,

> I begged him . . . not to proclaim our determined inaction on every opportunity that arises—the policy of not meddling is of course the right one but is it necessary that all mankind sh(ould) be let into the secret twice a day.[134]

Palmerston's government was made to follow a pacific course. It still lost a vote in the House of Lords, because its policy had been perceived as indecisive, and it barely escaped a vote of censure in the House of Commons. Palmerston needed the votes of the Cobdenties to escape defeat, which were only granted because the cabinet agreed not to intervene on the Elbe. Thus, Palmerston, the most bellicose leader of early- and mid-Victorian England, the man whose reputation had become synonymous with civis Romanus sum, Don Pacifico, and the Opium Wars, was now a prisoner of the peace party. This marked the "end of Palmerstonianism as a method of British diplomacy."[135] With Palmerston's death a year later, no successors to head the war party were immediately available. Peace and retrenchment were in the saddle and would stay there for about a decade. Cobden and the peace party had won.

In this last great victory of Cobden's life (he was to die a few months later in 1865), he made a parliamentary speech that summarized some of the key points of his philosophy, a speech for all those nations that aspire to be great powers should consider.

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[131]Quoted in Guido Ruggiero, *The History of European Liberalism* (Boston: Beacon Press, 1926), p. 130.

[132]See Donald Read, *Cobden and Bright* (New York: St. Martin's Press, 1968).

[133]Stanley, *Disraeli, Derby and the Conservative Party*, p. 143.

[134]Stanley, *Disraeli, Derby and the Conservative Party*, p. 143; also see Millman, *British Foreign Policy and the Coming of the Franco–Prussian War*, p. 32.

[135]Sandiford, *Great Britain and the Schleswig–Holstein Question*, p. 162.

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> We gain nothing by diplomatic meddling; we should discard the idea of maintaining the Balance of Power; we have not the material strength to protect the weak against the strong. There is a right and wrong in every case, and if we are always to choose one side or the other because it is thought to be right, how is it possible we can ever enjoy any peace or quietness in this country?[136]

The elderly Palmerston, humbled during this crisis and realizing that Gladstone would soon take over as prime minister, predicted "some strange things will happen" after his death.[137] He died a few months after Cobden. Gladstone's first ministry (1868–74), the first government to be formed by the newly organized Liberal Party, certainly exhibited rampant Manchesterism, especially in foreign affairs. Four years after Cobden's death, Gladstone asked,

> Is England so uplifted in strength above every other nation that she can with prudence advertise herself as ready to undertake the general redress of wrongs? Would not the consequences of such professions and promises be either the premature exhaustion of her means, or a collapse in the day of performance?[138]

MANCHESTERISM AT THE END OF THE VICTORIAN PERIOD AND IN THE EARLY TWENTIETH CENTURY

When this legacy of anti-imperialism started to fade in the latter part of the century, as Britain's leaders once again started to become enthusiastic empire builders and "worldsavers," there

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[136]K. Bourne, *The Foreign Policy of Victorian England, 1830–1902: Selected Documents* (Oxford: Clarendon Press, 1976), p. 378.

[137]Ridley, *Lord Palmerston*, p. 566.

[138]Richard Shannon, *The Crisis of Imperialism 1865–1915* (London: Hart Davis, 1974). On p. 48, he writes:

> It was the Manchester School more than any other influence which created the climate of public attitudes and assumptions in which Gladstone was to operate most sympathetically in the decades to come. In particular, as the contingency of intervention in Europe became in any case increasingly remote, the anti-imperialist ideology over which Gladstone was to preside found in Cobden its richest single source of inspiration.

Also see Edsall, *Richard Cobden: Independent Radical*, p. 363. Cobden wrote to Bright that Gladstone "has more in common with you or me than any other man of power in Britain." Edsall also wrote that no member of the cabinet was more supportive of the French trade treaty than Gladstone. As prime minister, Edsall says, "the agenda of Gladstone's first government (1868–74) was almost entirely concurrent with his (Cobden's) own" (p. 424). And Gladstone, toward the end of his life, writes: "I was brought up to distrust and dislike liberty. I learned to believe in it. That is the key to all my changes" (Stansky, *Gladstone: A Progress in Politics*, p. 181).

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was an interesting domestic by-product: welfarism. Both the Liberal and Conservative parties eventually endorsed wholesale social reform and the repudiation of laissez-faire economics. The empire was no longer regarded as "a millstone." Free-market economics and the internationalism of Manchester that took the side of small states stood in the way of empire and a collectivized economy, as socialists Sidney and Beatrice Webb knew so well. The Webbs, intellectual leaders of the late nineteenth and early twentieth centuries, lived very well, and wined and dined the leaders of all major parties. They didn't care about a politician's label as long they could succeed in "converting the country to the philosophy of our scheme."[139] Win this battle and it didn't matter what party was in power. As supporters of British imperialism during the Boer War, the Webbs had nothing but contempt for the ideals of Manchesterism and Gladstonian Liberalism,[140] seeing them as a road block that had to be swept away. They were right: laissez-faire economics was a big roadblock. Little Englanderism had to be destroyed in order for socialism and imperialism to triumph.

Economist Joseph A. Schumpeter explained it very well, saying, "Wherever capitalism penetrated, peace parties of such strength arose that virtually every war meant a political struggle on the domestic scene."[141] A purely capitalist world, Schumpeter says, "can offer no fertile soil to imperialist impulses."[142] Capitalism, in its purest form, promotes Manchesterism.

This analysis helps us to understand the political and economic dynamics of Britain's policy change in the Schleswig–Holstein War, and why that popular feeling brought about by prosperity vetoed war with Germany. It also explains why, as the collectivists started to slowly dominate the major parties at the end of the Victorian Era, imperialism became popular as part of a new dynamic role for the state in domestic and foreign affairs.[143]

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[139]Cited in F.A. Hayek, *Studies in Philosophy, Politics and Economics* (New York: Simon and Shuster, 1969), pp. 341–44.

[140]Beatrice Webb, *Our Partnership* (Cambridge: Cambridge University Press, 1975), p. 132.

[141]Joseph Shumpeter, *Imperialism and Social Classes* (New York: Meridian Books, 1955), p. 90. Schumpeter writes that "the type of worker created by capitalism is always vigorously anti-imperialist."

[142]Schumpeter, *Imperialism and Social Classes*, p. 53.

[143]Sir Robert Ensor, *The Oxford History of England, 1870–1914* (Oxford: Clarendon Press, 1966), p. 36. Also see Robert Blake, *Disraeli* (New York: St. Martin's Press, 1966).

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Indeed, Disraeli, in the 1874 election, sold imperialism as something every British citizen could be proud of. The masses, many of whom were newly enfranchised, ate it up, and democracy began to threaten liberty.[144] And, as franchise rights were extended even more in the 1880s, the masses started to question laissez-faire economics and began to move away from the individualism of the Manchester School. It was all part of Tory Democracy, which called for a greater role for the state in the economy as well as a revived interest in extending the empire. Two decades afterward, by the 1890s, this trend accelerated. It would also start to change the Liberal Party.

One leading Liberal in the 1890s said "we're all Socialists now."[145] The Liberals were no longer the party of classical liberalism. Gladstone, in retirement in the 1890s, complained of his Liberal party endorsing "constructionism," a euphemism for socialism, just as today politicians use the term "investment" when they mean more taxes. Joseph Chamberlain, a Liberal Imperialist who later turned Conservative Unionist, called for the end of free trade as a way of preserving the empire. He was admired for his reformist notions by Socialists such as the Webbs. In fact, he almost married Beatrice Webb. Chamberlain made his reputation as a mayor of Birmingham who was famous for "municipal socialism." Writes one historian of this trend: "Fabian Socialism was not to be all that different from the radicalism of Chamberlain, whose municipal socialism the Fabians saw in the evolution of socialism." According to one historian, this represented a

> decisive shift [from the] traditional liberal-Radical emphasis (what Chamberlain himself came to describe as Cobdenite liberal) on the sanctity of the market towards the encouragement of collective agencies—large firms, trade unions, the state—to regulate competitive economies.[146]

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[144]See A.V. Dicey, *Lectures on the Relation Between Law and Public Opinion in England During the Nineteenth Century* (London: MacMillan, 1962), pp. 252–53. On p. 40, Dicey writes,

> peace ought to mean light and war certainly does mean heavy taxation, but heavy taxation whether justifiable, as it so often is, or not, always must be a curtailment of each citizen's power to employ his property in the way he himself chooses.

Aee W.E.H. Lecky, *Democracy and Liberty* (Indianapolis, Ind.: Liberty Classics, 1981).

[145]See *Victorian Liberalism: Nineteenth Century Political Thought and Practice*, Richard Bellamy, ed. (New York: Routledge, 1990).

[146]Joseph Chamberlain, et al., *The Radical Program*, D.A. Hamer, ed. (Brighton, U.K.: Harvester Press, 1971), pp. xii–xiii. Also see Peter Fraser, *Joseph Chamberlain* (South Brunswick, N.J.: Cassell, 1967). He writes that in the late 1880s in Britain,

> the dominant trends were making towards collectivism or state socialism and imperialism, not only among the electorate at large, but

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Chamberlain was also admired by imperialists for statements such as this one in 1895: "I believe that the British race is the greatest of the governing races that the world has ever seen."[147] The British imperialists believed their mission was to save the world. Robert Taft had a term for the ideas of these world savers: "Globaloney."[148]

Cobden and his internationalist friends would have been disgusted by these jingoistic notions. Many Liberal Imperialists found it easy to back their nation during the Boer War. The Socialist Webbs were emphatically on the side of British Imperialism. As one historian who lived through this era and chronicled it related:

> The independence of small nations might mean something to the Liberal individualist. It meant nothing to collectivists like themselves. I can still hear Sidney Webb explaining to me that the future belonged to the great administrative nations, where officials govern and police keep order.[149]

Beatrice Webb summed up the new philosophy that was overtaking Britain at the end of the nineteenth century: "If one believes that spontaneity is wrong, then regulation must be right; if

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> also among the younger Liberals, most notably Roseberry, Asquith, Haldane and Grey, who were to lead the Liberal Imperialists.

Fraser also writes that "Little England cries . . . were passing their zenith" (p. 139). Also, Bright noticed the attraction of imperialism even in the Liberal Party in 1882: "Painful to observe how much of the jingo or war spirit can be shown by certain members of a Liberal cabinet" (Sturgis, *John Bright and Empire*, p. 105).

[147]Bellamy, ed., *Victorian Liberalism*, p. 201. Also see Rolin W. Winks, "The Rhetoric of Imperialism," in *British Imperialism: Gold, God, Glory*, Rolin W. Winks, ed. (New York: Holt, Rinehart and Winston, 1964), p. 80.

[148]Here's a recent plea from President Clinton on why the U.S. should send troops abroad, this time to the Balkans:

> From Iraq to Haiti, from South Africa to Korea, from the Middle East to Northern Ireland, we have stood up for peace and freedom because it's in our interest to do so and because it is the right thing to do." (*New York Times* 11/28/95)

In the next sentence Clinton disavows America's role as a world policeman, yet this is precisely the role every president has chartered for the U.S. in the last half century. Notice Clinton's language. He never says the U.S. will exert military force in the world, but that "we have stood up for peace." It reminds one of a very similar comment by George Orwell, "Politics and the English Language," in *The Orwell Reader* (New York: Harcourt Brace, Jovanocivh, 1956):

> Political language—and with variations this is true of all political parties, from Conservatives to Anarchists—is designed to make lies sound truthful and murder respectful, and give an appearance of solidity to pure wind.

It's very windy on the Potomac.

[149]Elie Halevy, *History of the English People in the Nineteenth Century* (New York: Barnes and Noble, 1960), epilogue 1, pp. 105–6.

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individualism is a social evil, then collectivism must be a social good."[150]

Classical liberalism, and its radical offshoot, Manchesterism, were just about finished in Britain. Laissez-faire economics was a primary force in driving anti-imperialism, so when the former was scuttled, the latter went with it.

THE LEGACY OF MANCHESTERISM AND ITS RELEVANCE TO AMERICANS

Although in some ways Manchesterism started to go into decline in the 1870s,[151] just as imperialism became fashionable again along with the end of laissez-faire economics, Cobden's contributions were still recognized for a few generations after his death, even though they usually weren't honored. Disraeli and his Conservative Imperialists won the 1874 election, in part by campaigning in favor of retaining and expanding the empire. But large-scale interventions on the continent of Europe and joining great power alliances were still not a serious option for three decades. In what may be an exaggeration, historian A.J.P. Taylor goes so far as to say that Cobden and Bright became the masters of British foreign policy in the mid-Victorian period.[152] He says that their influence was felt even after Cobden was dead for some four decades. From the 1860s to 1906, no British government would give great serious consideration to intervening in a European War, he says. For instance, Gladstone's first ministry, which included Bright, steered clear of the Franco–Prussian War in 1870. And even when Britain started to discuss what would become a military alliance with the French in the early part of the twentieth century, it was done very quietly.[153] The British people, in the mid- and late-Victorian periods, had become used to "splendid isolation"[154] and untaxed food. It would take anoth-

[150]Beatrice Webb, *The Diary of Beatrice Webb* (Cambridge, Mass.: Belknap Press, 1982), vol. 1, *1873–1892*, p. xviii. Of course, it should be remembered that the Webbs weren't always guarded in their support of collectivism. Later they went on to write books in the 1920s and 1930s that praised the Soviet Union and Communism. See Sidney and Beatrice Webb, *Soviet Communism: A New Civilization* (Nwe York: Charles Scribner's Sons, 1937).

[151]Ensor, *Oxford History of England*. Also see E.J. Feuchtwanger, *Disraeli Democracy and The Tory Party* (Oxford: Clarendon Press, 1966), pp. 82–102.

[152]Taylor, *The Trouble Makers*, pp. 40–66.

[153]Roy Jenkins, *Asquith* (London: Chillmark Press, 1974), pp. 242–45.

[154]In 1906, the Conservatives fought the general election on the issue of "imperial preference," a policy designed by Joseph Chamberlain to give preferential treatment to products coming into Britain from the empire. Food, as well as other prod-

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er decade or so for the Liberal Imperialists and Conservative Social Reformers, as well as a World War, along with the development of an openly Socialist party, but the heritage of nineteenth-century classical liberalism in Britain finally died in the second decade of the twentieth century.

These same trends eventually would infect the United States in the twentieth century, beginning with the Progressive Era, and eventually triumphing with the end of the World War II, which laid the foundations of the national-security state. A people cannot destroy this imperial republic and restore limited government unless they understand how their nation became a great world power. To understand Manchesterism is to rediscover the American libertarian traditions. Manchesterism reflected many principles of American Republican government. The Manchester School should be one of the guides in this trek away from the military–industrial–entitlement complex. Laissez-faire economics and pacific foreign policies are linked. They will either stand or fall together.

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ucts from outside the empire, would have been taxed. The Liberals, standing by the Cobdenite creed of free trade and no food taxes, won a smashing victory. Unfortunately, the subsequent Liberal government then proceded to build the foundations of the modern welfare state as well as enter into various military alliances, which led Britain into World War I. John Morley, a Cobdenite member of the government in 1914, resigned because of the war issue, just as Bright had resigned from the government in 1882 over the issue of the invasion of Egypt. Cobdenites are consistently anti-war, regardless of whether it is popular. Also see Colin Cross, *The Liberals in Power, 1905–1914* (London: Barrie and Rockcliff, 1963), pp. 1–25; also Jenkins, *Asquith;* and the less reliable book by Sephen Koos, *Asquith* (New York: St. Martin's Press, 1976).

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POLITICAL UNIFICATION: A GENERALIZED PROGRESSION THEOREM

Jörg Guido Hülsmann*

A characteristic feature of modern civilization is the steady growth of government.[1] This government growth occurs under two forms: either through a more intense taxation of its present subjects, or through bringing more people under its control. In other terms, government growth can either be an "intensification" or an "extensification" of hegemony. Since government growth means that private-property rights have been more invaded than before, the fundamental problem of bringing more persons under government control is that some persons are likely to resist. Yet, which factors determine this resistance? Why is it that a government sometimes can extend its dominance over people who live in other territories, whereas in other cases it cannot? And why does each extension of power go hand in hand with an increase of taxes? In this paper, I try to add to the explanation of government's extensification by examining the role of political unification in securing it.

WHY POLITICAL UNIFICATION COMES ABOUT

The Limits of Justifications for Government

The problem of expanding government's endeavors through a more intense taxation lies in the potential resistance of the taxpayers. Nevertheless, these attempts do succeed from time to time. One reason is that any resistance is costly, and sometimes very costly, to the subjects. Most importantly, however, resistance always depends on the conviction of those who are resisting that their cause is justified. If the population does not believe it has a right to resist, or if at least the majority do not so believe,

*Jörg Guido Hülsmann is a research fellow of the University of Paris II.

[1]On the problems of measuring government intervention and government growth, see Murray N. Rothbard, *America's Great Depression*, 4th ed. (New York: Richardson and Snyder, 1983), pp. 296ff. For a critique of conventional statistics hiding the implications of government activities, see Hans-Hermann Hoppe, *Eigentum, Anarchie und Staat* (Opladen, 1987), pp. 27ff. An excellent book which documents the way governments expand during emergencies is Robert Higgs, *Crisis and Leviathan: Critical Episodes in the Growth of American Government* (New York: Oxford Univ. Press, 1987).

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then any rebellion is unlikely to be started, and still less so to succeed. Thus, at all times and in all places, governments try to persuade their subjects of two things: first, that resistance is not a right of the people, and second, that the increased taxation is necessary or beneficial. As such, they try to render the new taxes acceptable to the majority.[2]

In these endeavors, governments always enjoy one big advantage: the presupposition is in their favor, that is, the majority of the ruled persons believe that government is necessary to provide certain services. In other terms, they believe that they could not in all cases rely on voluntary cooperation to make society work. In some cases, they believe, it is legitimate to force people, that is, to violate their property rights. Yet, if this is necessary and legitimate in *one* case, why shouldn't it be so in *other* cases? Therefore, resistance against government is usually not a matter of principle. However, unprincipled resistance is weak. From the outset, it concedes the main point, viz., that there *is* a case for government.[3] The discussion, then, concerns the delineation of exactly which spheres of life that this case applies to. However, this is a question of more or less personal preferences; it is a question of opinion.

The growth of government, therefore, can be explained by the change of opinion among the ruled. In earlier times, people believed that government was needed to fulfill a more limited function, say, only the production of security. Now, they believe that government should also assume other responsibilities, say,

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[2]It can be claimed that there is majority rule under *all* forms of government. See Étienne de la Boétie, *De la servitude volontaire ou Contr'un* (Paris: Gallinard, [1562] 1993); David Hume, "On the First Principles of Government," in *Essays* (Indianapolis: Liberty Classics, [1777] 1987).

[3]This case has been seriously challenged, to say the least. For security not being a special good requiring government intervention, see Gustave de Molinari, *The Production of Security*, J. Huston McCulloch, trans., Occassional Paper Series #2, Richard M. Ebeling, ed. (New York: Center for Libertarian Studies, 1977); Murray N. Rothbard, *Power and Market*, 2nd ed. (Kansas City, Kansas: Sheed Andrews and McMeel 1977), ch. 1; Murray N. Rothbard, *For A New Liberty* (New York: Macmillan, 1973), ch. 12; Hoppe, *Eigentum, Anarchie und Staat*, pp. 106ff. For a devastating critique of the concept of public goods, see Murray N. Rothbard, *Man, Economy, and State* (Los Angeles: Nash Publishers, 1962), vol. 2, pp. 883–90; Hans-Hermann Hoppe, *A Theory of Socialism and Capitalism* (Boston: Kluwer Academic Publishers, 1989), pp. 211ff; Hans-Hermann Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer Academic Publishers, 1993), ch. 1. For a brilliant demonstration that, of all conceivable agents, government is least capable of producing public goods, see J.R. Hummel, "National Goods Versus Public Goods: Defense, Disarmament, and Free Riders," *Review of Austrian Economics* 4 (1990): 88ff.

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the production of socks or the protection of cherry trees. Yet, how does government manage to bring about the required change of opinion? It has to find reasons that render its increased activity acceptable for the bulk of its subjects. The problem it faces is to discover, or, if necessary, to invent a common purpose that unites the ruled under the ruler, and induces them to grant more power than they previously accorded him.

Historically, there have been but two ideas that were sufficiently strong and widespread to unite great numbers of people for a common project, viz., Christianity and nationalism. However, neither of them was sufficient to enhance power. The problem with religion was that, in contrast to military force, the secular rulers had no monopoly in it. For centuries, a quasi-monopoly was held by the Catholic Church, and only on rare occasions did the Church have an interest in increasing the power of the princes. The best-known instances when they did are the crusades against the "pagan" peoples reigning over the holy land. Yet, these occasions were not frequent enough to satisfy the princes' demands for war. The Catholic Church represented a serious obstacle to their ambitions, and it was even a secular power of its own. Thus, the princes had a vital interest in breaking the monopoly of this mighty international organization. Many of them welcomed the Protestant Reformation, because its organizational aspect was a strong emphasis on the parishes, and on the individual believer, rather than on a strong, trans-national hierarchy. Of course, these reforms could not be put into action without violent resistance from the Catholics and their allies. The resulting conflict, the Thirty Years War, destroyed Germany and reduced its population by one third, but it increased the power of the German princes.

The problem with nationalism is that, in itself, it can give no conceivable support for government growth, at least not in an advanced society. A stronger government can never be in the interest of all members of a nation, because among the ruled there is hardly a point on which they all agree. As more capital is accumulated, and as the division of labor becomes ever-more sophisticated, the interests of individuals become more diverse and sometimes antagonistic. Hence, whereas it was always possible for a prince to unite *some* private interests in the support of his endeavors, it is extremely rare to secure the support of *all* private interests. Therefore, additional beliefs must prevail in order to make the nation aggressive. The most efficient of these has been the Marxist theory of class struggle. Not only it was a perfect vehicle for an intensification of government power in the

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name of an alleged need for arbitration between capitalists and the working classes, it also proved to be an excellent justification for waging war on other nations.[4] In order to secure government growth, there is, apart from the intellectual problem of inventing such ideas, the technical problem of spreading them. One of government's strategically most important tasks is, therefore, to bring as many educational institutions as possible under its control. It must accommodate teachers, professors, university staff, etc., within the state apparatus.[5]

However, before the age of democracy set in, the success of this strategy was very limited. People were, by and large, well aware of the fact that all the power of their ruler had to be taken from them. They knew that each intensification of his power signified a reduction of theirs, and that each extensification of his power through war had to be financed by them in the first place. In other terms, there rarely existed a common spiritual bond between rulers and ruled that united them in the pursuit of the same ends. Rather, both the government and the subjects of each country had a distinct "class consciousness." In normal times, the class consciousness of the subjects united them and prevented sudden or large encroachments of government. People knew that in most cases, even defensive wars would usually only substitute one ruler for another, and they were generally indifferent on the question of who should be their ruler. Under democracy, ruling became easier for government. This is because, on the one hand, democracies wipe out the clear distinction between rulers and ruled. On the other hand, democracy destroys the belief that resistance is justified. For these reasons, only democratic governments have succeeded in establishing standing armies and in increasing the ideological backing for war.[6]

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[4]On these consequences of the Marxist concept of class struggle, see Ludwig von Mises, *Die Gemeinwirtschaft*, 2nd ed. (Jena, 1932); Ludwig von Mises, *Liberalism: In the Classical Tradition* (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1985); Ludwig von Mises, *Omnipotent Government: The Rise of the Total State and Total War* (New Rochelle, N.Y.: Arlington House [1944] 1969).

[5]On this point, see S. Blankertz, *Legitimität und Praxis* (Büchse der Pandora, Wetzlar, 1989), pp. 130ff; Rothbard, For *A New Liberty*, pp. 119ff; E.G. West, *Education and the State* (London: Institute of Economic Affairs, 1970).

[6]See Bertrand de Jouvenel, *On Power: Its Nature and the History of its Growth* (New York: Viking Press, 1949; Hoppe, *The Economics and Ethics of Private Property*; Hoppe, *Eigentum, Anarchie und Staat*, pp. 152ff, 182ff; Hans-Hermann Hoppe, "The Political Economy of Monarchy and Democracy, and the Idea of a Natural Order," *Journal of Libertarian Studies* 11, no. 2 (1995); Hans-Hermann Hoppe, "Time Preference, Government, and the Process of De-Civilization—From Monarchy to Democracy," *Journal des Économistes et des Études Humaines* 5, no. 4 (1994).

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Irrespective of the prevailing political regime, and no matter how much a government succeeds in gaining public support, the fact is that government expenditures have to be paid by *someone*. Taxes can be more or less equally distributed, but nevertheless they have to be paid. The more a person is forced to pay, the more likely is his resistance, and the higher is his propensity to opt out by his feet, that is, to go away and leave that government's influence zone. Because of this scarcity-imposed limitation, no government can indefinitely increase its power through taxation alone. It must take recourse to other measures.

Debts and Inflation

The most common measures to increase government's power, apart from open taxation, are debts and inflation, for they have one common advantage, viz., to permit government to avoid open taxation. Thus, they help prevent the resistance that usually goes with each increase of government power. However, these measures are not permanent solutions. The problem with debts is that creditors eventually want their money back. When this happens, the indebted government is forced to levy higher taxes on its subjects. Sooner or later, it must face the resistance that it tried to avoid through the incurrance of debts. This should be a fairly obvious state of affairs. But politicians think that they can "solve" the problem in a simple way—with *more* debts. However, sooner or later creditors will become reluctant to prolong the credit.[7] Thus, the consequences of debts are twofold. On the one hand, government can increase its power beyond the limits of open taxation. Its activity is still limited but shifted to a higher level. On the other hand, and this is crucial, government becomes dependent on the will of big creditors, that is, especially of banks and other financial agents. The problem with these people is that one cannot easily seize their property as one can do with most of the common people. Money is very mobile, and as long as there are other governments, money owners can escape to them and rescue their riches.

The case of inflation is similar. Government can increase its share in the national product through the debasement of metallic money, or through the printing of paper money, but it cannot do so indefinitely, since this will, at some point in the future,

[7]For a real-world example of the extreme consequences of these, see Thomas J. Sargent and Francois R. Velde, "Macroeconomic Features of the French Revolution," *Journal of Political Economy* 103, no. 31 (1993): 474–518. Sargent and Velde make a compelling case that the principal cause of the French Revolution was the French government's recurring budget deficits and its inability to meet its bond obligations.

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necessarily create a hyper-inflation, with the consequence being that the government money would not be used any more at all. But even if the inflation remains moderate, it will have unwanted repercussions, for the debtors will insist in receiving payments in a more stable currency, and the other market participants will begin to abandon the bad money in their daily transactions.[8]

From the foregoing, a further conclusion can be drawn. We have seen that the internal growth of a government through taxes, debts, and inflation is *limited*. Yet, the point is that one of these limits is the mere existence of other governments. Therefore, once a government reaches the limits of indebtedness and inflation, that is, the limits of intensification, the only way out is to extend its control over other territories, that is, through extensification. Governments have two incentives to do so. The first is the obvious one of controlling more persons—which means more tax revenue for a given level of resistance, and thus more power. The second one is the incentive to prevent political competition. Neighboring governments are particularly receptive of the riches, both in terms of money and skills, that persons bring from other territories. Thus, for each government, it would be highly advantageous to somehow eliminate its competitors. This would increase the cost of escaping from its control, so more people would stay in the country and pay higher taxes than otherwise would. This is the reason why the extension of political control regularly goes in hand with the growth of government. As the sphere of its power is enlarged, political competition is diminished, and this increases the cost of emigration. Therefore, taxes can be higher than before.

How can government extend its control to other territories? There are but two possibilities: either it can do so by war and bloody conquest, or by some peaceful appointment with other governments, that is, by political unification. Of course, war is a very expensive and risky undertaking that normally cannot be carried out without increased taxation of the present subjects. It is for this reason that government extensification often cannot proceed by conquest or any other violent technique of bringing new territories (and men) under its control. In this case, the only recourse left is to proceed by the unspectacular way of political unification.

We see, thus, that the causes of political unification are twofold. On the one hand, there are limitations on the internal

[8]See Ludwig von Mises, *Theory of Money and Credit*, 3rd Engl. ed., H.E. Batson, trans. (Indianapolis, Ind.: Liberty Classics, 1981); Jörg Guido Hülsmann, *Logik der Währungskonkurrenz* (Essen: Management Akademie Verlag, 1996), pp. 269ff.

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growth of government power. On the other hand, there are the costs and risks of war and the difficulty of justifying its necessity. Now let us see how political unification is brought about, that is, which forces are at work when they emerge.

HOW POLITICAL UNIFICATION COMES ABOUT

Political Unification Under the Ancient Regime

In ancient times, the standard form of political unification was marriage. However, one must not overlook the fact that marriage alone was never sufficient for the concentration of vast empires, for political control also has an organizational aspect. All primitive empires sooner or later broke down, simply because the capital was too far away to control the provinces. The princes and kings lacked the resources to make their orders felt at the borders of the empire. As a consequence, the vassals were, in effect, sovereign rulers of the provinces.[9] Therefore, marriage rarely had the effect of accumulating vast empires. Rather, it served to confirm the established political links, and that was the most it could usually achieve. Only with the economic advancement of society, and the consequent increase of taxes, could the princes overcome these difficulties, because with greater economic means, they could rule over a more extended empire. Thus, it was economic progress that created the necessary conditions for political concentration. Political unification through marriage became possible on a wider scale because of the extension of capitalism.[10]

Political Unifications Under Democratic Regimes: The Problem of Personal Interests of Members of Government

The explanation of political unification in modern democracies is somewhat more complicated. Whereas in the case of noble marriages, each family involved profits directly from the new family bonds, no such thing can be said of modern bureaucrats

[9]See Franz Oppenheimer, *Der Staat* (Berlin: Libertad Verlag, [1907] 1990). Oppenheimer describes the rise and fall of feudal empires as a "vicious circle" (Hexenkreis), pp. 96ff. In his eyes, the vicious circle is broken by the use of money. On the organizational problems of feudal government, see also Ludwig von Mises, *Bureaucracy* (Cedar Falls, Iowa: Center for Futures Education, [1944] 1983), chap. 2, sec. 1.

[10]Historical imperialism can also be explained by the fact that domestic capitalism permitted an aggressive foreign policy. See Walter E. Grinder and John Hagel III, "Toward A Theory of State Capitalism: Ultimate Decision-Making and Class Structure," *Journal of Libertarian Studies* 1 (1977); Hoppe, The *Economics and Ethics of Private Property*, ch. 3; Murray N. Rothbard, *Wall Street, Banks, and American Foreign Policy* (Burlingame, Calif.: Center for Libertarian Studies, 1995).

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or politicians. The problem is, of course, not to explain why each of them has an interest in wielding more power. Rather, the problem is to explain why any one of them should be ready to abandon part of his power in a political union. We have seen that the new government that would eventually spring from the union would have the prospect of higher total taxation than the two constituent governments had before. The reason is that competition would be reduced, and thus, the cost of emigration increased. However, it is unlikely that this would be to the personal advantage of all politicians and bureaucrats who are involved in the matter. "Government" would profit from the political merger, but there is really no "government" as such; rather, there are only individuals acting as members of the apparatus that we call the State.[11] Thus, the crucial question is whether there is any mechanism that systematically brings modern governments to seek political union even if it diminishes the personal power of bureaucrats and politicians.

Indeed, there is such a mechanism. We can analyze it most comfortably by considering an analogous case from monetary theory. Here the progression theorem[12] permits us to conceive of central banks as a consequence of the principle that underlies fractional-reserve banking.

Fractional-Reserve Banking and the Progression Theorem

Fractional-reserve banking means that the commercial banks give, of principle, promises that they cannot keep. They promise to redeem each money substitute, that is, each bank note or demand deposit, to the bearer whenever he wishes to have his money. Yet, they issue money substitutes in a quantity much bigger than the money they actually hold. Thus, they cannot possibly keep their promises once there are more demands for re-

[11]Only in their opposition to the general public do government officials share a common class interest. Anticipating the main tenets of public choice analysis, H. Spencer perceptively stated,

> A comparatively small body of officials, coherent, having common interests, and acting under central authority, has an immense advantage over an incoherent public which has no settled policy, and can be brought to act unitedly only under strong provocation.

H. Spencer, *The Man Versus the State* (New York: Cambridge University Press [1884] 1994), pp. 47f. Also Albert Jay Nock, *Our Enemy, The State* (New York: W. Morrow, 1935), pp. 8, 30ff, 66, 75 (12). All specific elements of public choice theory are already present in this brilliant analysis. See also the first chapters of Macchiavelli, *The Prince*.

[12]This term was coined by Professor Joseph Salerno. See "Two Traditions in Monetary Theory," *Journal des Économistes et des Études Humaines* 2, no. 2/3 (1991): 371.

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demption than they expected. Of course, such demands are regularly brought about by this way of banking. The banks know very well that they may not exaggerate their issues, but they do not know exactly which issues would be still permissible and which issues would be too much. The competition of the other bankers forces them to be audacious in the exploration of this point. Thus, liquidity crises and bank runs have historically occurred, and even continue to this day.[13]

These crises are, of course, very dangerous for the banks. In a big crisis, many of them are driven into illiquidity, even if they were not yet as bankrupt as the banks that failed in the first place (this effect is called "contagion"). Thus, they have a vital interest in avoiding them. However, on the one hand, they do not want to abandon the profitable practice of keeping only fractional reserves, and on the other hand, competition always drives them toward the next crisis. What to do, then? The solution that has been found is the existence of central banks. It does not matter whether they are privately or publicly owned. They sometimes emerged from private clearinghouses, but in most cases they were from the outset owned by the state. It is obvious that central banks wield an enormous power over the commercial banks. They decide who will receive additional credits, they decide which bank can extend its activity, and, in times of liquidity crises, they decide ultimately who will survive.

Now, the point is that, despite their dependence on the central bank, the commercial banks have an interest in this institution, at least when the central bank is founded, for the pooling of money brings a temporary relief. It permits the central bank to salvage the commercial banks in some cases where, absent a central bank, they would have been lost. However, as the banks know that they have this safety net, they become even more audacious in their practices, and give credits that they did not venture to offer before. In other terms, they further diminish their reserve ratios. As a consequence, sooner or later, the very

[13]One need only think of the number of failed S&L's in the U.S. over the past two decades to realize the on-going extent of this problem. On this issue in general, see Rothbard, *Man, Economy, and State*; Murray N. Rothbard, *What Has Government Done to Our Money*, 4th ed. (Auburn, Ala.: Praxeology Press, 1990); Murray N. Rothbard, "The Case For A 100% Gold Dollar," in *In Search Of A Monetary Constitution*, Leland B. Yeager, ed. (Cambridge, Mass.: Harvard University Press, 1962); see also Hans-Hermann Hoppe, "How is Fiat Money Possible?—or, The Devolution of Money and Credit," *Review of Austrian Economics* 7, no. 2 (1994); Jörg Guido Hülsmann, "Free Banking and the Free Bankers," *Review of Austrian Economics* 9, no. 1 (1996); Jose Huerta de Soto, *Estudios de Economia Politica* (Madrid: Union Editorial, 1994), p. 138.

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same problem that the central bank was supposed to solve will become virulent. The difference is that it occurs on a wider scale.

When that happens, there are only two ways out. The first way is that the central bank joins other central banks in forming a central mega-institution of their own. It is clear that in this case, each central bank would become dependent on the new institution. Yet, as before with the commercial banks, each of them has an interest in abandoning its independence, for this permits survival for the moment. The other option is to get permission from the government not to redeem the money substitutes they issued, that is, the permission to break their contracts.[14] Obviously the central banks abandon their independence in this case, and they now depend on the will of the government not to pursue them for this criminal act. However, here as before, the central banks have an interest in giving the government power over them, for this permits them to survive for the moment.

This is what monetary theory suggests. One could resume the progression theorem by saying that *each step toward more dependency has its origin in a bankrupt regime.* The fractional-reserve commercial banks are inherently bankrupt, and sooner or later this becomes obvious. Then they abdicate, and the central banks take over. As the latter are structurally bankrupt as well, it is but a question of time until they also voluntarily abdicate.

A More General Progression Theorem

The case of modern political unification is exactly analogous. The fundamental fact is that most modern governments are highly indebted. And there is no question of paying debts back because the required increased taxation is very unpopular. Thus there are only three ways out, namely, inflation, refusal to pay the debts, and political unification. I shall discuss them in turn.

No modern government likes to solve its debt problem by printing money, for this leads to political and economic revolution. One has to be aware of the fact that inflation always implies a re-distribution of income. Yet it serves the interest of government only as long as it is moderate and runs *first* through the hands of government and its allies. By contrast, inflation on the scale required could not be moderate, and in large parts it would have to run first through the hands of the general lending

[14]Of course, it is not correct, strictly speaking, to say that government can legitimately give such permission, for permission can be granted only on behalf of one's property. Yet, it is not government's property that is at stake here.

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public. This has three implications. First, the ensuing huge redistribution of wealth could not be controlled. This directly threatens government and its business allies. Second, the inflation is likely to induce a business cycle that ends up in an economic crisis. Such events increase the likelihood of a political re-orientation of the citizenry. Moreover, this political revolution would, third, be enhanced by the complete collapse of the monetary system, when people begin to abandon the hyperinflated currency.

The second solution is to refuse payment of the debts. Banks being the main financial intermediaries, this would also lead to the immediate breakdown of the banking system. As modern commercial banks operate on a fractional-reserve basis, the money supply and the price system would immediately collapse, too. Could a government prevent this outcome? Clearly, it would be no solution to "prevent" the breakdown of the credit and payments system through a simultaneous inflation, for this is likely to lead to social and political revolution. A variant would be to limit the refusal of payment to foreigners. This measure could, indeed, bring temporary relief (if we disregard, for the sake of argument, the influence of reciprocal actions from foreign governments and lenders). However, such an action puts the government immediately at the mercy of foreign governments for all future credits. No private person would be willing to accord any new credits to it. Only governments could assist it. This leads us to the third way out of the debt crisis.

The third option consists is providing liquidity from other governments that are not yet bankrupt. The price to be paid for the assistance is, of course, in terms of political favours. Let us point out again that here, as in the case of fractional-reserve banking, *each* government has an interest in this deal. It is obvious that the bankrupt governments have incentives to pay the political price. The not-yet-bankrupt (but already highly indebted) governments have an incentive to bail them out, too. As a consequence of the high degree of international division of labour, the bankruptcy of one government has immediate repercussions on the budgets of all other governments. Therefore, highly indebted governments have an interest in avoiding the slightest disruption on the international financial markets, as this could precipitate their own fall. Even the bankruptcy of a small government would threaten them.[15] This has to be avoided. All

[15]And, of course, that of any major private market participant. This explains the staunched readiness of highly indebted governments to subsidize big business.

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kinds of breakdown or uncontrolled sudden change are a nightmare for the establishment. The paramount interest of today's politicians and bureaucrats is to make the show somehow go on.[16] Therefore, bankrupt governments want to be bailed out and not-yet-bankrupt governments are ready to help them. The result is political unification.

This is the mechanism at work that incites political unification in modern democracies. The driving force is the necessity and the will of governments to extend their power, and to survive in times of crisis. This force leads to political unification, because bankrupt *and* not-yet-bankrupt governments have a common interest in bargaining financial assistance against political influence.[17]

The concrete terms on which the deal is made depend essentially on the governments' respective bargaining positions. These depend, in turn, on the governments' degree of indebtedness and on their relative seize. According to the particular circumstances of the case, different institutional outcomes are conceivable. For example, a small bankrupt government is likely to be absorbed by a big one that has no debts; and several highly indebted governments are likely to form a separate institution in order to avoid the high costs of multilateral bargaining. In the next sections, I shall briefly discuss two recent institutional outcomes, thus illustrating our theoretical findings.

Illustration I: German Reunification[18]

The German case is probably the best illustration of one-sided submission of a bankrupt régime. Indeed, the East German

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[16]For these reasons, Keynesianism, the ideology of debts and inflation, "has become the pure economics of power, committed only to keeping the Establishment-system going, making marginal adjustments, babying things along through yet one more election." Murray N. Rothbard, "Keynesianism Redux," in *The Economics of Liberty*, L.H. Rockwell, ed. (Auburn, Ala.: Ludwig von Mises Institute, 1990), p.30.

[17]Generally speaking, might always depends on the capacity to fulfill certain needs. See on this point Arnold Gehlen, "Soziologie der Macht," in *Handwörterbuch der Staatswissenschaften* (Tübingen, 1961), vol. 7, pp. 77ff. See also Jörg Guido Hülsmann, *Kritik der Dominanztheorie* (Frankfurt/M.: R.G. Fischer, 1993), pp. 48ff. For an application to the field of international relations (that is, relations between governments), see B. Herz and J. Starbatty, "Zur Frage internationaler Dominanzbeziehungen—Eine Analyse der Machtverteilung auf Weltwirtschaftsgipfeln," in *Kyklos* 44 (1991): 35ff.

[18]See also Hans-Hermann Hoppe, "De-Socialisation in a United Germany," *Review of Austrian Economics* 5, no. 2 (1991); Roland Baader, *From Socialism to Welfarism: Reflections on a German Experiment* (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1995).

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government was not only financially bankrupt, it was *completely* bankrupt—morally, politically, culturally. Forty years of socialism had wrecked the nation. Public discussion has focused on the inferior living conditions under which the East Germans had to live, but this was only the economic side of the disaster. With very few individual exceptions, the East German experiment ended in a complete debacle on all levels. For a while, it seemed as if nothing of the old system was worth saving. The East Germans cried for reunification, and each day since the Berlin Wall fell in November 1989, they publicly displayed deep contempt for their rulers.

In March 1990, they voted overwhelmingly against the communists. Thus, the West German establishment found virtually no obstacle when it took the whole country over and imposed its power structure on the East. West Germany's social security system and its unemployment insurance system were taken to the East, as well as its the tax-collecting system. Moreover, the entire political and public administration was newly built up according to the western scheme.

Of course, the East Germans did not know how to operate these new institutions, or how to deal with the unknown administrative rules. Thus, the manpower had to be imported from the West. Persons who normally would have had to wait for years to rise in the hierarchy of public administration could now make brilliant blitz-careers. Almost all command posts in the economy, in public administration, in science, and in culture were given to West Germans. Thus, 1990 to 1993 were the golden years for the West German establishment. It was the easiest take-over one can imagine.

However, they not only took East Germany over, they also increased the state's share in the national product. In fact, they profited from a huge wave of patriotism that ran through West Germany, for the West Germans are convinced that reshaping the East is the task of the government. Thus, they accepted enormous tax increases. Year by year, more than 140 billion Marks were transferred from West to East.[19] The Germans also accepted an enormous increase of public debts. This exceptional situation, according to the official argument, required exceptional means. Nobody listened to the economists who objected that these means were taken from the rest of society. Today, Germany's public debts are almost twice as high as in the mid-eighties.

[19]A corresponding amount would be annual payments of $300 billion by the United States to Mexico.

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Re-privatizations of East German corporations ended up even below West German standards, and the police, courts, traffic, education, and communication were all firmly kept in the hands of the state. The overall result of the German reunification is a huge net increase of state power. For decades after World War II, Germany was, on the economic level, the freest of Europe's great nations. Now she is quickly approaching France and Italy, that is, Germany runs the danger of becoming bankrupt.

Illustration II: European Union

The case of the European Union is an excellent illustration of a central institution that helps to reduce the co-ordination costs of several highly indebted—and contagion-threatened—governments. In the European Union, some states—Belgium, Italy, and Greece—are virtually bankrupt. Other states, including Austria, Portugal, Ireland, Spain, and Sweden, are on the wave of becoming so, and the rest is not much better.[20] In other terms, more and more members of the European Union need to be bailed out.[21] It will not take a very long time before no private investor will give them new credits. As the governments know this, they have started to become serious in their bargains with other governments. This has accelerated the negotiations leading to the reinforcement of the central bureaucracy in Brussels. Most of the governments became more interested in a coordination of their financial and economic policies. They needed an instrument to facilitate the complicated multi-lateral bargain. Of course, the European Commission was glad to step in. Now, it is our governments' servant. In the future, it could be their master.

Some of the major terms of the bargain have become obvious in the last four years. Germany is to give up her currency, the Deutsche Mark. In exchange, the German government obtains a

[20]Public debts for the most indebted EU-countries were (in % of GNP) Belgium–132, Denmark–80, Germany–60, Greece–112, Spain–74, France–60, Ireland–82, Italy–123, Netherlands–79, Austria–72, Portugal–72, Sweden–83. Significantly better is the only country under monarchical rule, Luxembourg–8.

[21]Of course, this is one of the main reasons for *joining* the European Union at all. Thus, the "regional fund" for subsidizing "underdeveloped regions" within the European Union has been considerably extended whenever a new member-state has been admitted to the club. Similarly, the "cohesion fund" played an important role in promoting the Maastricht treaty. See, for example, Roland W. Waniek, *Die Regionalpolitik der Europäischen Gemeinschaft: Eine kritische Bestandsaufnahme*, Essen: Ruhr-Forschungsinstitut für Innovations–und Strukturpolitik 5, no. 1 (1992): 12; Klaus-Peter Schmidt, "Zuviel des Guten: Viele europäische Länder kommen mit dem Ausgeben der riesigen Brüsseler Subventionen nicht mehr nach," *Die Zeit* (3 March 1996): 31.

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Europe-wide imposition of social, environmental, and technical standards. Let us decode what that means.

The Deutsche Mark is the most stable of the European currencies. For the bankrupt governments of Europe, it is the hated symbol of "oppression," as they say. In reality, it is the symbol of the limitations that the market sets on them. For the Germans, the Deutsch Mark represents stability and self-confidence. Thus, giving up the Mark is a high price that the Germans are now forced to pay.

Still, some Germans (but not all) get things in exchange. For example, the social standards are a concession to the big German trade unions, who want to prevent cheap foreign labor force from entering the German market.

The environmental standards are a concession to the strong green movement in Germany. At the same time, they are a gift for the German industry, since Germany already has the strictest environmental legislation in Europe. In many cases, this has prevented German firms from effectively competing on foreign markets. Now, the foreign producers will suffer at least as much as their German counterparts. Finally, the environmental standards are an offering for the German environmental industry, which is, due to the special legislation, the most developed of its kind in Europe.

The technical standards are another donation for German big industry, which intends to outcompete the industries from other European countries through its recognized superiority in producing high-quality products (even where a lower technical quality would be sufficient). Of course, the imposition of these standards would have to be trusted to the European Commission in Brussels, or to whatever successor it will have. And, undoubtedly, it would enhance the total of government's share in the national product.[22]

CONCLUSION

If one wants to cut back government, one has to destroy the conditions that favor its centralization and, ultimately, its very existence. The main conclusion to be drawn from the foregoing is

[22]The North American Free Trade Agreement (NAFTA) bears more resemblance to the German re-unification than to the European Union. Mexico's government is completely bankrupt, and is bargaining financial assistance against political and economic influence from the Washington D.C. and Wall Street establishment. See *The NAFTA Reader* (Auburn, Ala.: Ludwig von Mises Institute); also Rothbard, *Wall Street, Banks, and American Foreign Policy.*

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that the origins of modern political unifications are to be found in bankrupt regimes. Therefore, two intermediate goals on the road toward a free society are most important. The first one is to abolish fractional-reserve banking and central banks. The second one is to outlaw public debts. Once these two steps are accomplished, both the intensification and the extensification of government will become more difficult, and the maintenance of liberty will become easier.

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FROM THEORY TO REALITY: BARRIERS CONFRONTING LIBERTARIANS

Raimondo Cubeddu*

Classical Liberalism, especially of the Austrian inclination, and Libertarianism are by now recognized as the most influential research traditions of our time. While it would be superfluous here to repeat the reasons for such widespread significance, it should not be overlooked that, so far, the significance of these traditions has been recognized mainly in the academic world. There are numerous countries in which these ideas have yet to achieve the impact we wish for on public opinion and the electorate at large.

One of the strongest boosts to the spread of Austrian and libertarian ideas has come from growing realization of the self-evident truths contained in arguments against the various forms of statism and interventionism that have been repeatedly put forward for decades by the major thinkers of this school, such as Mises, Hayek, Leoni, and Rothbard (to cite only those who are not with us anymore). Their pioneering work was often carried out amidst the general indifference, if not outright hostility, of scholars who claimed to stand in the tradition of classical liberalism.

However, given the now-manifest dissolution of the overlap between the political and economic spheres, the Austrian claims can be seen to have striking current relevance. In fact, the contention that the nation-state is only a historical version of the solution to the problem of the best political order, rather than being the ineluctable theoretical horizon of political philosophy, no longer sounds outlandish and outmoded. Now there is a widespread awareness of the risks jeopardizing individual rights as a result of the uncontrollable dilatation of the range of affairs that fall within the purview of the interventionist state.

It is when the belief in the state not only as a guarantor and producer of the law but also as a regulator of the economy ap-

*Raimondo Cubeddu is Professor of Political Philosophy at the University of Pisa in Italy. This paper is based on a speech delivered at the Austrian Scholar's Conference, April 4–5, 1997, Auburn, Alabama. I would like to thank Dr. Luigi Marco Bassani, former student of mine in Pisa, with whom I extensively discussed several topics of this paper.

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pears to be an arrogant fabrication that the proposals of the Austrians and the libertarians assume greatest current significance. So far, however, knowledge of these proposals has not achieved sufficient penetration throughout society, and this gap between the theoretical validity of the ideas and their limited diffusion could once again relegate us to a fringe position.

In other words, we know that the conception of the state of *jus publicum europaeum* has run its full course (and the terminus has proven to be vastly different from that prognosticated by the historicists). On the other hand, our recommendations on how to deal with the decline of the state have, to date, perhaps not been formulated in a sufficiently precise manner. No one could seriously suggest standing around and waiting for the civil wars that are likely to come about when a political order is overthrown and no proper substitute has been contrived. It cannot be denied, though, that our ideas on how to deal with the problems of founding a new political order based on liberty have not yet been understood and acknowledged as viable proposals.

Consequently, I believe that we are facing two related challenges: the first of a theoretical nature, concerning the problem of security, and the second, which must be dealt with very pragmatically, regarding the need for greater effort to achieve the global spread of Austrian and libertarian ideas.

Despite the clear disinctions one can make, these two challenges are closely related. Arguably, over the last few centuries, the whole subject of security and uncertainty has been ignored and expunged, despite having occupied an absolutely central role from the Hobbesian theory of the origins of the state onward. One of the factors contributing to this neglect is to be found in the attitude of the theoreticians of the state. Pressed as they were by the need to hide the failures of the state, and recognizing that its legitimation stemmed exclusively from its ability to act as the effective safeguard of individual rights, and therefore as a remedy for uncertainty, they ended up merely paying lip-service to the various historical forms of the modern state. The statist thinkers turned their attention to forms of legitimation that would allow extension of the competences falling under the authority of the state while at the same time immunizing it against any realization that the state was no longer capable of producing security.

On closer inspection, I would reject any explanation of the phenomenon "state" if the explanation is centered solely on the fact that the state has enjoyed such a long life due to its success in

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establishing a monopoly on violence and on the production of law. This explanation is not entirely satisfactory because the argument fails to take into account the incredible power and prestige the state has acquired by making its citizens believe—sometimes by resorting to force and violence—that the state itself is actually the best producer of individual and social security. But once one grants that this additional aspect also plays a major role, attention should be focused more sharply on the problem of wants and satisfaction of certainty.

Ever since the Mengerian explanation[1] of the origins of property, this theme has been dealt with in depth, leading to excellent theoretical results. But we also know that the Austrian theory of the birth and development of social institutions has not been adequately debated, and social science scholars still forget the adjective "cultural" that Hayek interposes between *evolutionism* and *spontaneous*.[2] Neither have we devoted sufficient attention to the words with which, before embarking on his critique of the "ethical approach to economics," Menger concludes the eighth appendix of *Untersuchungen;*

> but never, and this is the essential point in the matter under review, may science dispense with testing for their suitability those institutions which have come about "organically." It must, when careful investigation so requires, change and better them according to the measure of scientific insight and the practical experience at hand. No era may renounce this "calling."[3]

And perhaps we have not given due regard to his revisitation, in Appendix 7, of "The opinion ascribed to Aristotle that the State is an original phenomenon given simultaneously with the existence of man."

The problem is the relation between *security* and the *state*. We are all familiar with Hayek's works on the social distribution of knowledge and the role of knowledge distribution in the

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[1]Carl Menger, *Grundsätze derVolkswirthschaftslehre* (Wien: Wilhelm Braumüller, 1871; reprinted in *Gesammelte Werke*, F.A. Hayek, ed. (Tübingen: J.C.B. Mohr [Paul Siebeck], 1968–70), vol. 1, pp. 56ff.; Engl. trans. *Principles of Economics*, (Glencoe, Ill.: Free Press, 1950).

[2]See, i.e., F.A. Hayek, *Law, Legislation and Liberty* (London: Routledge, 1973–79) vol. 1, pp. 20ff., and vol . 3, "Epilogue," pp. 155ff.

[3]Carl Menger, *Untersuchungen über die Methode der Socialwissenschaften, und der Politische Oekonomie insbesondere* (Leipzig: Duncker and Humblot, 1883; reprinted in *Gesammelte Werke*, F.A. Hayek, ed. (Tübingen: J.C.B. Mohr [Paul Siebeck], 1968–70), vol. 2, pp. 286–87; Engl. trans. *Investigations into the Method of the Social Sciences with Special Reference to Economics* (New York: New York University Press, 1985), p. 234.

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determination of *temporal equilibria*,[4] and his analysis of the way this influences human action. Indeed, this is one of the Austrian School's most important contributions to the theoretical social sciences. For this reason, we should highlight the link between these issues and our critique of statist social philosophy. Of course, having demonstrated that the state is unable either to guarantee individual rights or satisfy "individual claims"[5]—that is to say, to produce security—we must now study how to replace the state. I am convinced that victory will be ours if, and only if, we succeed in convincing the citizens-voters that we have a better solution to solve the problem of order.

In a historical perspective, the state is a form of *political association* shaped by a specific historical context, and also a mode of concentrating power that arose in a given historical context. The crisis of the state should not delude us into thinking that power concentration will tend to be reduced. Since it is not so much violence as insecurity that lies at the roots of political power, any increase in insecurity will tend to lead to an increase in the people's desire to put an end to it by granting even greater power to government.

The state can reduce insecurity only if it restricts itself to the forgotten sphere of protecting individual rights. When it also takes on other tasks, insecurity increases. This happens with a peculiar touch in democratic regimes: policy is effectively decided by social groups who acquire power, and these groups will attempt to maximize their future certainties and their expectations at the expense of those of other groups. For instance, the "certainty of law" is interpreted by the classical-liberal tradition as an essential and indispensable condition for individuals to be able to work out their life plans. However, one may wonder what is left of this noble idea in the face of a reality characterized by diffuse "finalistic" legislation in many European countries, as well as in the United States.

We must, therefore, attempt to forge a link between theoretical studies on the relation between *insecurity* and *human action*, and perspectives in political philosophy inquiring into possible substitutes for the state.

This is hardly a very original statement, and I am fully aware that much of this work has already been done, and admi-

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[4]See F.A. Hayek, *Individualism and Economic Order* (London: Routledge, 1948).

[5]See Bruno Leoni, "The Law as Individual Claim," in *Freedom and the Law*, expanded third edition (Indianapolis: Liberty Fund, 1991).

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rably so.[6] But I am equally aware that professional politicians and the overwhelming majority of political scientists—even those inspired by the very best of intentions—cannot even *conceive of politics and the economy without the state.* Furthermore, there has been such an emphasis on statism as some form of "salvation on earth" that citizens of countries most severely hit by this epidemic are seized by panic at the mere suggestion that the functions of the state should be limited. This kind of hysteria is making itself felt in many European countries, even though one can begin to perceive the first hints of realization that the state has failed in what ought to be its major role, and that this failure is going to have cosmic repercussions.

We must, therefore, make a clear effort to devise and promote a credible political alternative to the nation-state. Such an alternative should enable the rich heritage of achievements of Western civilization to be maintained and should also be equal to the challenges provided by the era toward which we are moving. For this is, indeed, an era in which any claim by the institution "nation-state" to be able to create and uphold security, as well as law and order, is going to be palpable in all its absurdity or in all its violence.

In these circumstances, the one factor that must not be overlooked is that the desire for certainty is almost eternal. To disregard this essential factor is tantamount to accepting that the liberal tradition, both in its classical and libertarian forms, will be destined forever to remain a fringe movement.

We know that *catallactics* is more successful than is the state in the production of individual and social security. But we also know that, like all human institutions, catallactics is not infallible, and needs continual improvement in its manner of functioning. What we must not ignore is that statists will do everything in their power to attribute to the market any increase in social uncertainty, thereby attempting to blame the market for their own idealized institution. Furthermore, the market will also be blamed for any adverse social consequences that ensue from the process of globalization, where globalization is taken to mean competition among free producers of goods and services, as well as among workers.

Stated in a slightly different manner, we must avoid a repetition of what happened in the 1920s: we must avert the risk of being shunned as if we were the ones responsible for the social

[6]See, i.e., Hans H. Hoppe, "On Certainty and Uncertainty, Or: How Rational Can Our Expectations Be?" *Review of Austrian Economics* 10 (1997): 49–78.

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uncertainty that is bound to be ushered in by these events. It should not be forgotten that in many countries the market is still regarded as something evil, and in such countries statist intellectuals still have such a dominant position in the press and the media that they would have no difficulty in off-loading the responsibility onto the market and capitalism, instead of admitting the failure of statism itself. If this scenario were to come true, then in many countries the classical-liberal tradition would be swept away by the desperate efforts of statists to grasp at any straw to save their skins.

Turning now to a different problem, there is a growing desire for greater *ethicalness*, or indeed for a *public ethic*, that is making itself felt along with the various attempts to show that despite all the arguments in its favor, the market has so far not provided a better solution to this problem than has the state. Recognition of this desire does at least provide an indication of the direction in which hostility to the market is likely to develop over the next few years. Therefore, it offers a preview of the kind of opposition which the traditions of classical liberalism and libertarianism are likely to have to contend with. For instance, in countries most exposed to this hazard, Kant's teaching that the *res republica* is the best political regime even for a nation of devils (so long as they possess understanding)[7] has been quite forgotten. Consequently, expressions such as a public ethic, the ethical state, and so on, have once again become fashionable, all memory of their previous utilization to defend totalitarian regimes having been conveniently brushed aside. One even finds the suggestion that liberal democracy cannot survive without a public ethic and that the so-called failures of the market should be attributed to the lack of such an ethic.

When the hammer of globalization finally deals its crushing blow to statism-ridden European democracies, wreaking its devastating effects of unemployment and social and generational conflict, statists will do their best to conceal their own failure by accusing the market of being neither ethical nor rational.

At that point, we may find ourselves in a situation not unlike that which brought totalitarian regimes to power, for although such regimes differed from one another in various ways, they all shared the common feature of hostility to individualism and the

[7]Immanuel Kant, *Zum ewigen Frieden: Ein philosophischer Entwurt* (Könisberg: Friedrich Nicolovius, 1795), reprinted in Immanuel Kant, *Werkausgabe*, vol. 11 *Schriften zur Anthropologie, Geschichtsphilosophie, Politik und Padagogik* (Frankfurt: Suhrkamp, 1977), pp. 223–24; Engl. trans. *Perpetual Peace: A Philosophical Sketch* in *Political Writings*, H.B. Nisbet, tran. (Cambridge: Cambridge University Press, 1991), pp. 122–23.

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market, to the point that their efforts, albeit uncoordinated, succeeded in making it appear as if individualism and the market were to blame for the first major crisis of interventionism.

Every Austrian knows how much it costs to re-establish a minimum of historical truth. If we prove unable to steer this crisis of statism in the right direction, all the efforts made so far will turn out to be in vain and, once again, we will play the role of scapegoats for the failure of the modern state. The victory of the market over nation-states will thus be interpreted not as the outcome of a process, but as a misadventure. In this manner, the failure of statism, a far worse failure than that of socialism, will end up being considered the failure of the market.

I do not wish to appear a prophet of doom and disaster in saying that we have very little time left to prevent this from happening. I also realize that one may be totally indifferent to the fate of many countries of the Western world. But what I refuse to believe is that such a prospect could prove to be entirely painless and devoid of effects on the survival of the ideals of individual freedom and their spread throughout the world.

If defense of these ideals constitutes a worthwhile goal for which to fight, we must first and foremost clarify that the defence of the free market is not the ideology of an "affluent bourgeois class." In the United States, this may seem to be a rather trite observation, but it is important in those parts of continental Europe and elsewhere in the world where the mentality of both the elites and the masses was shaped by Marxism, and where this mentality still persists. It should not be overlooked that any order may seem to be preferable to chaos.

For instance, in order to be credible and thereby exert influence in political terms, we need to construct a new and realistic role for philosophy and economics that helps lead to the dissolution of nation states. In other words, we need to build suitable models of political institutions so that we can set about persuading the citizens-voters that they are not about to make a leap into the void or into chaos. We must also give a concrete demonstration of why the market is capable of competing successfully with the state in the production of certainty and security.

It is on this latter point that we face our greatest challenge. The Soviet experience has shown that a political regime can endure only if it proves capable of fulfilling individual expectations and producing security and legal certainty. These are its only sources of legitimation. Over time, legitimacy in the Web-

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erian[8] or ethical sense is not enough. Any state which bases its legitimacy on ethical motivations will ultimately lose out when made to compete with other, more efficient models. This being said, however, we should also take note that the ethical justification of the state, and of political institutions in general, is actually a way for shirking comparison with other models of the state.[9] After all, the theories and promises of Marxism have been shown to be inescapably hollow, and therefore falsifiable, by comparative analysis of empirical data on wealth production and satisfaction of individual and social needs. In contrast, such comparisons cannot so easily be applied to the ethical state, whose advocates dodge the issue by seeking refuge in an unassailable ethical desirability.

There is also a need to make clear what an enormous impact the Austrian school has had on the history, theory, and practice of classical liberalism. So far, there is insufficient awareness of the fact that, as a result of the Austrian teachings and the spread of these ideas, classical liberalism now rests on quite different bases from those that underlay pre-Austrian liberalism.[10]

One of Mises's great achievements is to have explained in depth the theoretical solution of the labor-value problem. It was this great Austrian scholar who pointed out that only subjectivist economics and human action could rescue classical liberalism from the quagmire of classical economics, which was centered on the labor-value theory.

Furthermore, since the ideas of the Austrian School are not yet universally known and accepted, we must, as Hayek urged, start out from the way in which ideas take shape in individuals' minds,[11] and try to understand and overcome the prejudices that

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[8]See Max Weber, *Wirtschaft und Gesellschaft* (Tfbingen: J.C.B. Mohr [Paul Siebeck], 1973), vol. 1, pp. 29ff., 123, and vol. 2, pp. 544–45, 822ff.

[9]Raimondo Cubeddu, "The 'Irrelevance' of Ethics for the Austrian School," in *Methodology of the Social Sciences, Ethics, and Economics in the Newer Historical School. From Max Weber and Rickert to Sombart and Rothacker*, P. Koslowski, ed. (Berlin: Springer Verlag, 1997) , pp..259 –284.

[10]It is undoubtely one of Mises's greatest achievements to have explained in depth the theoretical solution of the labor-value problem. It was, in fact, the great Austrian scholar who pointed out that only subjectivist economics and human action could rescue classical liberalism from the quagmire of classical economics, centered on the labor-value theory. See Ludwig von Mises, *Die Gemeinwirtschaft: Untersuchungen fber den Sozialismus* (Jena: Gustav Fischer, 1922); Engl. trans. *Socialism: An Economic and Sociological Analysis* (Indianapolis: Liberty Press, 1981).

[11]See F.A. Hayek, *The Counter-Revolution of Science: Studies on the Abuse of Reason* (Glencoe, Ill.: Free Press, 1952), p. 38, where Hayek writes that "methodological individualism" starts from the concepts which guide individuals in their actions,

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still hinder the spread of these ideas. Our task, thus, is to bring out into the open the profound change that has come about in the sphere of classical liberalism and libertarianism, in order to allow these ideas to achieve greater popular appeal and therefore enable classical liberalism and libertarianism to compete more successfully on the market of ideas.

As Hayek pessimistically pointed out, the failure of early liberal constitutionalism and the necessity of formulating a new model[12] are now quite evident. However, we must reverse this trend. In other words, we must shake off the stigma and outworn image of being the defenders of laissez-faire capitalism, so much linked with last century's conservative social order, of those who naively thought that the reign of freedom would be ushered in by spontaneous historical evolution, and who accepted typical nineteenth-century optimistic historical finalism. For we know that the outcome of these nineteenth-century views has been radically different from what was expected.

Let me give you an example. You all know who Bruno Leoni was, and the contribution he made to libertarianism and classical liberalism. But perhaps you are not aware that *Freedom and the Law*—and I am extremely proud to have contributed to this achievement[13]—was published in his own country and in the Italian language only two years ago. Prior to that time, the overwhelming majority of the Italian intellectual establishment was totally unaware even of the existence of the book. This goes to show, besides proving the old latin motto *nemo propheta in patria*, how it is perfectly possible to have good ideas and yet to live out one's life in total obscurity.

The impact of Leoni's ideas in the Italian context has not been one of rejection, but rather one of intense curiosity. It led to the realization that the author of what is undeniably a classic of liberalism was putting forward ideas and arguments that seemed light years away from stereotyped Italian beliefs on classical liberalism, usually equated to a conservative social order. We must be able to exploit such circumstances.

I will now give you another example. Very often, when speaking of libertarianism, opponents and skeptics alike seek to

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and not from the results of their theorizing about their actions. But see also F.A. Hayek, *The Sensory Order. An Inquiry into the Foundations of Theoretical Psychology* (London: Routledge and Kegan Paul, 1952).

[12]Hayek, *Law, Legislation and Liberty*, p. 1.

[13]Raimondo Cubeddu, "Introduzione" to Bruno Leoni, *La libert e la legge* (Macerata: Liberilibri, 1995); Ital. trans. of *Freedom and the Law*.

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stress the unreality of its fundamental assumptions. This issue must be addressed from two different points of view. The first is that of the theoretical soundness of anarcho-capitalism. The second is an issue of an empirical nature. In this case, the theoretical well-foundedness of libertarian arguments is no less rock-solid than the principles underlying the basic assumptions of mathematical economics that characterize the theory of general economic equilibrium. Yet, because of the way that these different concepts have been presented, the mathematical principles enjoy widespread acclaim while libertarian ideas struggle to gain currency.

As Mises pointed out, any political regime is capable, albeit for a limited period of time, of maintaining its grip through the use of force. But this does not mean that other models of political association are unrealistic or utopian simply because they are non-violent.

If we are serious about spreading our ideas, we need to recognize that, unfortunately, the metaphor of the invisible hand, and the expression laissez faire, do not work to our advantage. This is due to the fact that even though we know perfectly well that "order is not a necessity but a possibility," such expressions involve the risk of portraying us as naively believing in the existence of social mechanisms which, if individuals are left free to pursue their own ends, will evolve by a sort of unexplained spontaneous order into the best possible outcome.

By the same token, we must also guard against falling into another trap, associated with the search for the best solution to the political problem. Classical thinkers, for whom political philosophy embodied the quest for the best political regime, regarded the so-called "political problem" as the problem *par excellence*. In attempting to devise our own solution, we should not be misled into thinking that it can be solved *inductively*, either now or at some future time, by coming into possession of an ever-increasing amount of information or by gaining access to information. I do not mean to imply that this is non-essential, but we must not lose sight of the concept that order—understood as the predictable outcomes of actions performed by free individuals—is first and foremost a process of *cultural selection* that goes on first in the individual, and only later is transmitted to society.

The speed at which it is possible today to gain access to information and to exchange information will not necessarily lead to a better order. Certainly, it will become possible to achieve a process of homogenization of expectations, but this will not auto-

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matically bring a significant increase in the opportunities for fulfillment of the expectations.

Just as bombarding an individual with information may render it impossible for him to organize the sensory stimuli from the outside world, so also can society as a whole be bogged down with information. Just as a wealth of stimuli and information may turn out to be an obstacle to the formation of an individual order, so might a social order be similarly overwhelmed with excessive information. The speed of circulation of expectation-satisfaction models may ultimately prove to be something of an obstacle to the social fulfillment of those expectation, and also to any assessment of their medium- and long-term effects. Thus, one might encounter individuals or social groups interacting according to behavioral models so different that total incommunicability ensues. In fact, a proliferation of models might actually accentuate insecurity.

The fact is that because of the unequal distribution of knowledge, there is no reason to hope that by separating freedom from "natural right" (in Rothbard's terms),[14] social problems will thereby be solved. The possibility of finding the best solution to a problem is linked both to a refinement of the critical method and to an increase in individual freedom. The point is that catallactics is a process of cultural selection whose outcome is uncertain, because the unequal distribution of knowledge, and the variable availability of time, means that even when individuals are perfectly free, they may not recognize the best solution when they come across it.

In conclusion, there exist solutions to practical problems which are not evaluated in the same way by all individuals. We would do well to ponder very seriously on the fact that some individuals may not even become aware of the existence of these solutions.

[14]See Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982).

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BOOK REVIEWS

Libertarianism—A Primer. By David Boaz. New York: The Free Press, 1997.

Libertarianism: A Reader. David Boaz, ed. New York: The Free Press, 1997.

What It Means to Be A Libertarian. By Charles Murray. New York: Broadway Books, 1997.

Reviewed by Jeffrey Tucker*

The American anti-statist intellectual tradition includes a wide variety of thinkers, from left utopians to secessionist agrarians to right anarchists. Seemingly small theoretical differences between them can produce hugely different answers to the all-important question: what is to be done? Murray Rothbard's primary contribution to this tradition was to firmly tie anti-statism to a strict adherence to property rights, rights which the state tramples on by its very existence, and rights which are best protected and enforced by private parties. The answer to the question of what is to be done follows clearly: government power must be curbed and eliminated, to be replaced by private association. But modern libertarians haven't always followed up on this radical Rothbardian project. Some libertarian writers—let's call them left-libertarians—prefer to concentrate on the personal liberties associated with this political doctrine, while submerging property-centered social theory and a radical critique of the State, especially of the imperial state, within a larger laundry list of other aspects of libertarian policy.

David Boaz's primer may not be the prime example of applied left-libertarianism (the post-Goldwater works of Karl Hess better deserve this moniker) but it nonetheless fits comfortably in that category. The reader is left with no doubt about where Boaz stands on lifestyle issues (drugs, sex, speech, etc.) and the policy concerns of the punditry class (how this or that program can be improved), but is left to speculate on precisely how strict Boaz's utopia would be with regard to the protection of property rights, or how or on what level of society those rights would be enforced.

*Jeffrey Tucker is the director of research at the Ludwig von Mises Institute in Auburn, Alabama.

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Boaz is no anarcho-capitalist, he is by no means a political decentralist, and he is certainly not a radical. Even from the opening pages, the reader is encouraged to believe that libertarianism is consistent with mainstream thinking. His evidence is a series of polls and a smattering of establishment opinion from major newspapers and television commentators. In case that is not enough to convince, he offers his opinion that libertarian ideas are practically inevitable because of the "dynamic world—call it the Information Age, or the Third Wave, or the Third Industrial Revolution—we are now entering." Thus, libertarianism "is the leading edge—not a backlash, but a vanguard" (p. 3). Boaz attempts, and largely succeeds, in maintaining this supposed forward-looking pose throughout his book.

Indeed, it may be true that a future of liberty awaits, and certainly there's no harm done by an optimistic outlook. But true optimism must always be provisional. It believes something can be accomplished if people will it to be so and take the necessary steps to bring it about. Boaz's forecast of a libertarian future is not optimism but pop-determinism of the megatrends variety, and his forecast still implicitly allows for the possibility that the "inevitable" libertarian future is not necessarily desirable or workable. Arguments on behalf of future utopias have to do much more than merely announce their imminent arrival. They must make a systematic argument that persuades people to bring it about. It is here where a truly radical book like Murray Rothbard's *For a New Liberty* succeeds, and where this one fails.

Yet, the deterministic mode of argument does accomplish several tasks in this work, each of which appears to be a high priority to the author. It allows the author to bypass any examples of past political and economic arrangements that might have something better to offer than present ones, a stance which is anathema to all self-proclaimed progressives, among which Boaz includes himself. It also exempts the author from having to make any fundamental moral critiques against libertarianism's sworn enemy, the State (on which he offers no systematic theory), much less encouraging public activism against that enemy; after all, the demise of big government is already in the cards, so storming the barricades would appear unnecessary. Finally, it allows the author to forgo setting the historical record straight by celebrating those who resisted past encroachments of liberty by the state or condemning those who usurped power, for such requires a revisionist history that practically reverses the official history of the U.S. Such a task necessarily places the historian far outside the mainstream of current

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thought. What could be the point of intellectually alienating yourself from the mainstream when the forces of historical inevitability are already on your side?

For Boaz, the glory of libertarianism is not rooted in either theory or history, but rather is largely eschatological, the inevitable end of history to which all present events are tending. This is precisely the same rhetorical tactic that socialists have used, and for similar reasons. Since there is no successful example of real socialism, the best we can hope for is a transformation of the nature of man in some new and untested socialist world. It is for this reason that socialism has been called utopian: it fails to come to terms with what history teaches about the the nature of man and human society. Similarly, Boaz's progressive approach is vulnerable to criticism on the same grounds, that libertarianism is a pie-in-the-sky utopian vision that requires a great leap in the very nature of man; as such, it is a political philosophy that anyone steeped in history and serious political philosophy should avoid. Indeed, his call for repealing all laws concerning marriage, all limits to untrammeled immigration, and all restrictions on the availability of pornography and drugs, presumably even that involving children and on all levels of government, reinforce the appearance of left-utopianism.

Following Mises, there's good reason to dismiss any argument that depends on the forecasting ability of the writer. But once we've thrown out Boaz's Marxian-style claims about the glorious future that the forces of history have predestined for us, what is left of this book? In large part, what's left is a series of bloodless domestic policy discussions highlighting libertarian approaches to current social and economic issues. It is here where Boaz makes the transition from millennialism to pragmatism. On health care, Social Security, education, and foreign policy, we don't get principled theorizing so much as we get half-way and half-baked policy plans for vouchers, Medical Savings Accounts, free immigration, the line-item veto, and revenue diversions of Social Security from bonds to stocks. In these, Boaz convinces us that libertarianism, for good and ill, is worthy of inclusion in the "policy conversation," but we are left to wonder there is any more to it than there was to other political and management fads of yesteryear, such as "reinventing government," "downsizing," "competitiveness," or "supply-side economics."

In short, Boaz presents libertarianism not as a radical and fundamental challenge to the socialist and social-democratic consensus that has dominated this century and erected the larg-

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est and most intrusive governments in human history.[1] On everyday matters of policy, libertarianism, rather, is a workable policy option that lawmakers ought to bone up on and come to terms with because all trends point to a libertarian future.

Boaz sets out to confound his critics who would attempt to place him in the category of left or right, a characteristic tactic of movement left-libertarians of the 1970s. He takes continual swipes at right wingers, just in case anyone might think he is the secret ally of reactionaries. Jesse Helms—the all-inclusive nomenclature for American conservatism—is slammed for wanting to "impose" a "moral agenda on 250 million Americans" (p. 4), as if Boaz's brand of centralist libertarianism itself couldn't be "criticized" on identical grounds. And the cops who "beat" Rodney King come in for a flaying, though Boaz never presents the libertarian proposal for dealing with drugged-up felons who endanger lives by speeding through suburban streets and then violently resist arrest. The purpose here, of course, is to maintain the "progressive" tone of this tract from the first to the last.

He concludes his book with a question-and-answer test that readers can take to determine whether they themselves are libertarians. The results can be plotted on a graph usually attributed to libertarian activist David Nolan, who gets no credit in this book. The trouble with the chart is that it plots only a narrow range of civil and economic issues, and doesn't touch foreign policy issues at all. Indeed, in the three pages in which foreign policy is discussed, Boaz presents libertarianism as anti-war (true enough), but he provides no extended critique of the overwhelming reality of the American empire as it has developed in this century. Indeed, foreign policy would not fit into the narrowly phrased questions of the quiz. Neither does it deal with the all-important question of what level of government should enforce libertarian rights. If people have a right to buy a beer on Sunday, should this be enforced by the town where people live, or by the United Nations? If the town refuses to grant this right, should higher orders of government intervene? This practical concern is never raised. And neither the quiz nor the book deals seriously with voluntary structures of authority that might impose rules curbing the exercise of absolute individualism. The quiz asks, for example, if "you should decide" or whether the government should decide if you should "engage in a homosexual relationship" or "buy a pornographic video," as though there are

[1]In fact, he absurdly asserts, contrary to all evidence, that "individualism, private property, capitalism, equality under the law . . . have become the basic structure of modern political thought and of modern government (p.19).

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no intermediating institutions such as the family, church, or community (association with which is entirely voluntary) that might also have something to say about the issue.[2]

Sometimes, Boaz's progressivism runs headlong into libertarian doctrine itself. He argues that the "progressive extension of dignity" to "women, to people of different religions and different races" is "one of the great libertarian triumphs of the Western world" (p. 16), and he quotes proto-socialist Martin Luther King on civil rights (p. 229). Yet, as anyone who has tangled with the enforcement arm of the government's anti-discrimination police knows, this "dignity" has come at the expense of two fundamental rights: that of private property and that of association, the very two rights Michael Oakshott said are the most basic to freedom. Far from being a victory for liberty, the extension of civil rights (that is, the right to trespass) has been a complete disaster and a major source of tyranny of our times. Aside from a vague criticism of quotas, the right of property owners to discriminate doesn't figure into Boaz's libertarian calculus. Moreover, since when has the purpose of libertarianism—a political theory delineating the boundaries of property rights—been to progressively extend "dignity" to whole groups? This is indeed an innovation in libertarian theorizing.

There is at least one improvement here over traditional left-libertarianism, which has at times shown itself to be equally hostile to religious traditions as to state power. Boaz traces the development of libertarian thought from the Church fathers through St. Thomas Aquinas and his followers at the School of Salamanca. This is a commendable development, and an enormous step up from the rantings of the Randians.[3]

The credit Boaz deserves for his discussion of the Church's role in bringing about liberty is strangely marred, however, by

[2]At this point in thebook, Boaz is embarassingly relentless in his promotion of those who sign his paychecks: "As Edward H. Crane of the Cato Institute puts it, there are only two basic ways to organize society: coercively, through government dictates, or voluntarily, through the myriad interactions among individuals and private associations" (p. 15). Might anyone else in the history of ideas have made this point? In addition, I noticed dozens of sentences and arguments made by the others besides his institutional affiliates whose authorship is not acknowledged. The book has no footnotes, and his ending bibliographies only loosely refer to the ideas and authors discussed in the chapters in which he includes them.

[3]Incidentally, the material in his section on intellectual history, and indeed most of the theoretical structure of Boaz's own politics, is taken, without attribution, from Rothbard and the historians of thought whom Rothbard celebrates in his writings. This fact, obvious to any reader familiar with the libertarian literature, makes it all the more strange that Rothbard is discussed in only one paragraph and directly quoted only twice.

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his inexplicable celebration of the break up of what he calls the "monopoly" of the Catholic Church with the Reformation. When varieties of religion began to proliferate, "society did not fall apart," but "became stronger by accommodating diversity and competition" (p. 33). To discover whether Luther, Cromwell, and Mather were champions of diversity—in temperament, doctrine, or practice—Boaz should revisit his history books. What he probably means to celebrate, in fact, is not Protestantism as an exemplar of religious toleration, but liberal Christianity, which did indeed abandoned belief in orthodoxy and universal truth in favor of "diversity of competition," but also backed the socialistic economic and political doctrines of the Social Gospel. Moreover, it is no coincidence that in American politics, the religious groups most likely to back radical curbs in state power are not the unorthodox religions that celebrate tolerance and pluralism, but the orthodox ones that make intractable truth claims about their rights to practice their faith without interference from the state. Boaz never comes to terms with the implications of this reality.

This raises another problem that has vexed left-libertarian doctrine: what precisely is its relationship with orthodox religious faith, or is it incompatible with religion by its very nature? Indeed, we might ask the question about a whole variety of creeds with which Boaz might disapprove. For example, "racism," says Boaz, "clearly clashes with the universal ethics of libertarianism" (p. 99). But since racism is a frame of mind, and not necessarily of law, it is not clear why this should be the case. Yet, it appears that race is a special topic for Boaz, for it is only here that "it seems necessary to express a few moral sentiments that go beyond the bare description of libertarian policy. Although we have made great strides toward a society of equal dignity for all, Americans of all races need to affirm their commitment to rise about racial prejudice" (pp. 231–32). Why are there no other moral topics on which Americans "need to affirm their commitment?" Boaz's moral indignation is selective and consistent with egalitarian ethics, but not with traditional bourgeois moral claims. To insist that everyone commit to rising above the baseness of hard-core pornography, for example, might illicit the same charges that Boaz frequently levels against the religious right, that is, that it is an unlibertarian attempt to impose its morality on society.

What the subject of race draws from our author—that his libertarianism is really a frame of mind and a spirit of life, rather than a strict legal position delineating property boundaries—is in fact the subtext of his book. For example, he writes

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that libertarianism means "treating adult as adults, letting them make their own decisions even when they make mistakes, trusting them to find the best solutions for their own lives" (p. 104). But would this imply that business owners, clergy, or neighborhood association leaders who tell people what to do and expect obedience are violating libertarian ethics? Such exercises of social authority run against the spirit of ethical individualism that underlies Boaz's argument. Despite his claim that he is not celebrating libertarianism or moral hedonism, it is hard to avoid the fact that most of his examples uphold the decision-making rights of autonomous individuals even when it is clear that the private social authority of religious institutions, families, and property holders hold more sway in the real world.

Another very serious oversight in his narrative is the issue of what level of government should be responsible for the enforcement of libertarian rights. He often cites the U.S. Constitution, but neither condemns nor upholds federalism and states' rights (in fact, his only discussion of decentralization is in the context of Europe). But in the course of American history, most defenders of property and liberty have been states' rights advocates in the first instance, from the misnamed anti-federalists, to the Southern Republicans and secessionists, to the opponents of civil rights laws in the 1960s, to the gun rights advocates today. Though he never mentions these resistance movements, it's clear where Boaz's sympathies lie: in his brief discussion of the War Between the States, he celebrates Northern abolitionism while failing to even mention the invasion of the South by the North that made the present consolidated state possible. Even today, the essential battleground over the role of the central government revolves around questions of states' rights. The reason is obvious: in American history, the structure of the Constitution, and American political theory, states' rights and American liberty, as Lord Acton noted, are inseparable. But if your priority is the abstract right to engage in morally deviant behaviors, as versus the real rights of property holders and settled communities to make decisions without the interference of the central government, states' rights and political decentralization just do not figure into the equation.

Just what is the most powerful bulwark against state power? Is it the individual's assertion of his right to say, do, and be anything he wants with no outside restrictions, as Boaz claims? Or is it real families, communities of faith, and property holders that can be organized to counter the grasping ambitions of state power? A libertarian doctrine that celebrates values contrary to

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the social forces most likely to resist state power is not only ineffectual, it may well be counterproductive. Statists have always understood that individuals by themselves are powerless against the forces of centralized government, which is why they have long made it a priority to smash such institutions as families, churches, and local communities, and, indeed, to enhance the legal claims that individuals can make against such associations. A libertarianism that fails to encourage the autonomy of private associations like families and communities and the structures of social authority is not a viable libertarianism at all, because it cannot succeed in defending a practicable liberty.

This book does have the strength of being clearly written, and it does include some provocative arguments. For example, he attacks the neoconservative mantra "equality of opportunity" (p. 63)[4], and his examples can be creative at times (e.g., he cites the telephone bartering of Radar O'Reilly on the television show M*A*S*H as an example of economic chaos of the planned economy). But in general, there are no new insights or scholarly discoveries here, and it contains more than its fair share of compromises with libertarian principle. In short, it is a prototypical merging of pop-determinism, left-libertarian moral doctrine, and pragmatic think-tank policy maneuvering.

Perhaps because of the weak intellectual foundation of *Libertarianism: A Primer,* the publisher has also brought out a large collection of readings that sample a wide variety of already published literature. It contains some very good literature (Tocqueville, Mises, Rothbard, Paterson, Jefferson, Spooner, Locke, de Jouvenel), along with the writings of people with questionable libertarian credentials (Smith, Wollstonecraft), a number of contemporary writers familiar in libertarian circles (Doug Bandow, Roger Pilon, Lynn Scarlett), and some oddities (a Grateful Dead lyricist gets the wrap up essay).

The essays are organized thematically (though the themes tend to run together), and Boaz introduces each writing with biographic material. The volume is generally hard to use as reference material (unforgivably, there is no index in this 460-page book), and there is a huge overlap from essay to essay. I don't fault the motivation behind this project, but I do wonder about the wisdom of pairing Richard Cobden and *Spin* magazine. What's truly frustrating is what this volume could have been but is not. What about a collection of the writings and speeches of

[4]Though I wonder whether Boaz's own promotion of the right to "dignity," as opposed to strict property rights, is more or less menacing.

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libertarian resistors to the growth of the U.S. government and the onslaught of war from 1776 to the present? That would better root libertarianism in real political history as well as provide scholars and students a great reference book for the all-important task of revising the official version of American history. Wishful thinking aside, and despite this collection's quirkiness, the world is better off with it than without it.

The same cannot be said of *What It Means to Be a Libertarian: A Personal Interpretation*, the small tract by Charles Murray, author of *Losing Ground* and *The Bell Curve* (with Richard Herrnstein). It begins promisingly by restating the essential libertarian code: "thou shalt not initiate the use of force" (p. 7). A person is the owner of himself, the owner of previously unowned resources with which he has mixed his labor, and the owner of all that he has been given or for which he has contracted. No one is permitted to encroach his rights of ownership without permission. All of this is fine—until he drops the high theory and plunges headlong into statism. It begins with his review and endorsement of the traditional arguments for public goods (nonexclusivity and jointness of consumption), but fails to notice that a plethora of goods and services supplied by the market (in sufficient quantity) qualify by his own standards of what must be supplied by government. Even odder, the rules he suggests be used to deem government's own service illegitimate (e.g is someone paying for something he doesn't want to pay for) probably apply to all government services, else there would be no need to force anyone to pay for them.

Murray doesn't bother with such details. He takes another leap into listing the agencies he thinks qualify as legitimate: the State Department, the Department of Defense, the Department of Justice, all of which "would look very much as they do now" (p. 37). And, he adds, he would keep the Environmental Protection Agency. But here he throws away his entire case, and makes haggling over the details of public goods pointless. After all, these agencies administer the most menacing aspects of the modern state (Justice does anti-discrimination, gun control, and Waco-style raids; the EPA does property-rights violations; State and Defense do war), so what was the point of his theoretical discussion in the first place? Are we to believe that these agencies, looking "as they do now," pass Murray's public-good test? It would have been interesting to see his demonstration to that effect. Sadly, however, he is not satisfied with just leaving Leviathan in place; he goes one further by advocating what would amount to the nationalization of education, an unprece-

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dented step-up in state power over the lives of every citizen:

> One federal function, education, would become much larger in dollar terms, because a $3,000 unrestricted tuition voucher would be provided annually for each child attending elementary and secondary school—an expenditure of about $150 billion a year (p. 37).

And he really means it:

> How big should the voucher be? About $3,000 a year seems right, though the amount is open to discussion. . . . If $3,000 turned out to be too low to achieve the desired effects, it could be increased. The nation currently spends about $6,000 a year on each pupil attending the public system, giving considerable room to fine-tine the size of the voucher without increasing total spending on schools (pp. 96–97).

Here, Murray is assuming that under his plan, no government-run schools would exist at any level of society. But since states and localities might deem it appropriate to have public schools, this would require that the federal government effectively prevent localities from doing so. It would have to seize control of the nation's entire educational system, nationalizing it at the center, and determining curriculum, admissions, grading standards, discipline, and all the rest. As to whether this new and gargantuan welfare program would benefit society, we need only consult the history of other federal welfare programs—about which Murray is supposed to be something of an expert.

Add Murray's position on education to his proposal to abolish, at the federal level, all state and local laws on alcohol, drugs, prostitution, gambling, and pornography (most of which is controlled by the states and localities right now), and we have a recipe for the complete abolition of the right of self-government for everyone. After all, if Enid, Oklahoma, cannot determine for itself whether to have horse racing, sex parlors, and prostitutes on the street, what element of political freedom do the residents really have? Would residents of Enid be more or less free with armed FBI agents roaming the streets to enforce the rights of people to buy and sell sex? As with Boaz, Murray doesn't grapple sufficiently or consistently with the issue of the proper level of government for the enforcement of rights. It seems remarkable, but the tradition of subsidiarity—from Aristotle, to Aquinas, to the American framers, to Hoppe—seems to have been dropped as a practical matter in the left-libertarian literature. It's a huge oversight, since it's hard to grasp how a person can be both a libertarian and a practical centralist on politics.

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Murray returns to his position in favor of federally funded vouchers again and again in this short book. So it is startling to find his own partial refutation of the idea of tax-funded aid to schools in a discussion of the Johnson administration's school aid:

> School boards enthusiastically accepted it. But the money had strings—a few at first, then more. The schools soon became dependent on the money and found themselves forced to accept a wide range of restrictions and mandates if the money pipeline was to stay open. These strings reflected the values of the elite culture that created them, and they were often at odds with parent's educational priorities (p. 151).

If vouchers are ever passed at the federal level, this exact paragraph will work as a history of the course the program will take.

When Charles Krauthammer reviewed this work in a widely circulated column, he pointed out an interesting policy innovation. Murray would allow that products be stamped "unregulated" and allowed to compete with regulated ones. That is indeed an interesting point of policy, but it turns out that Murray didn't quite apply it in the way Krauthammer suggested. "If I have two banks sitting side by side," Murray writes, "one of which has a big UNREGULATED sign on the front" (p. 68). But applying this to the banking industry as versus the meat or shoe industry complicates the issue enormously. Banks benefit from subsidies that aren't necessarily included in the category of "regulation," like deposit insurance and access to the Federal Reserve's discount window. Murray doesn't specify that the unregulated banks would have to give up these subsidies. But an unregulated bank that benefits from a bailout guarantee would be the worst of all worlds, as the history of credit expansion shows. Far better to force all that benefit from subsidies to abide by government regulations; to allow them unlimited power to inflate would be akin to "deregulating" the post office by allowing them to charge any price its management wants to for stamps.

But let's just say Murray's suggestion were rightly applied, so that some producers can get by without obeying government dictate so long as they announce that this is the case to the consuming public. Murray says he would "be happy to live in a world" in which this is the case (p. 68). Yet, this situation would not be politically stable. Any unregulated industry that advances to the top of the heap would have incentive to lobby for expansion of existing regulations to bring down competition from below. The world that Murray imagines wouldn't last because it is an inherently unstable. Besides, the whole purpose of regulation from the point of view of the businesses that support it is precisely to lim-

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it competition by imposing added costs on others. With Murray's suggestion, we'd be back to where we started with universal regulation in the course of a single congressional session.

One area where Murray excels—and Boaz does not—is on the subject of the freedom of association. Murray gives us a relentless attack on all anti-discrimination law, going even further than Richard Epstein by rejecting even public-accommodations law. On the other hand, he seems to think modern unions are an example of the freedom of association, and would even allow for "special protections of collective bargaining" (p. 77). Perhaps he should have include the Department of Labor in the agencies he would keep alive in his libertarian world.

A final note on Murray. There are no footnotes, and even fewer references to the literature than Boaz provides. In an appendix on the literature, which is generally better than Boaz's, Murray writes that "I haven't even mentioned Hobbes, Locke, Hume, Jefferson, or, among the moderns, Murray Rothbard." It's a list of men—all but Hobbes are right-libertarians—whose works will survive long after these new books have sold out of bargain bins.

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LIBERTARIAN LITERATURE REVIEW

Edited by N. Stephan Kinsella*

1997 AND 1996 ARTICLES

"1996 Survey of Books Relating to the Law," *Michigan Law Review* 94, No. 6 (May 1996): 1379–2087. Includes book reviews in several areas, including law and economics, and philosophy and law. Reviewers and authors include Richard Epstein, Richard Posner, H.L.A. Hart, Robert Nagel, and Peter Brimelow.

Adelstein, Richard, "Language Orders," *Constitutional Political Economy* 7 (1996): 221–38. Examines the alternatives of spontaneous order and central planning in the context of human language to cast new light both on the issues raised in the Socialist Calculation debate of the 1930s and 1940s and on the nature of language itself. The evolution of the complex systems of rules that comprise natural languages is discussed, and the process of language acquisition in children is used to illustrate the problems involved in characterizing any spontaneous order as a social contract or convention. Suggests the nature of the obstacles that confront any attempt to overcome or redirect the deeply rooted behaviors associated with spontaneous orders through the imposition of a central plan.

Barnett, Randy E., "Getting Even: Restitution, Preventive Detention, and the Tort/Crime Distinction" [in "Symposium: The Intersection of Tort and Criminal Law], *Boston University Law Review* 76 (February/April 1996): 157. The purpose of criminal justice should be restitutive, to restore the victim to his former position, rather than retributive or punishment oriented. Rectifying rights violations corresponds to the category of torts. Crime prevention itself, however, permits the use of force in self-defense.

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*Mr. Kinsella practices computer-related patent and intellectual property law. Correspondence may be sent directly to N. Stephan Kinsella, Duane, Morris, & Heckscher, One Liberty Place, Philadelphia, PA 19103-7396, or via e-mail at nskinsella@duanemorris.com.

This section provides short descriptions of recent scholarly articles expounding on libertarian theory or otherwise of special interest to libertarians. The articles included are drawn exclusively from non-libertarian periodicals, since specialized libertarian fora are well-known sources of libertarian theory. Any restatement of an article's premises, arguments, or conclusions should not be taken to imply agreement with the points restated, by the editor of this Literature Review or by the editors of the *Journal of Libertarian Studies*.

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Self-defense may also be used in response to a threat, before harm occurs. The principle of "extended self-defense" would also justify, in certain circumstances, using force to restrain those who constitute threats to others, such as a jailed criminal who announces that he intends to resume committing crimes upon his release. [See Epstein, 1996 (Tort/Crime), below.]

Barnett, Randy E., "Necessary and Proper," *UCLA Law Review* 44 (February 1997): 745–93. The U.S. Constitution provides for a federal government of limited and enumerated powers, and also gives Congress the power to make laws which are "necessary and proper" to carry out these enumerated powers. Barnett argues for a strict conception of each of these requirements. A statute is "necessary" only if it is essential to the pursuit of an enumerated power or end, not if it is merely an expedient or convenient way to accomplish the end. A law is "improper" if it violates the background rights retained by the people. Federal courts should strike down as unconstitutional any federal laws that are unnecessary or improper, and this should be implemented by a presumption of liberty (a device that Barnett has also urged be used as a way to implement the unenumerated rights protected by the Ninth Amendment). Under this presumption, any federal statute that restricts or affects any exercise of individual liberty should be presumed unconstitutional unless the government carries its burden of showing that the statute is both necessary and proper, under the strict conception of these standards.

Berch, Michael A., and Rebecca White Berch, "The Power of the Judiciary to Dismiss Criminal Charges After Several Hung Juries: A Proposed Rule to Control Judicial Discretion," *Loyola Los Angeles Law Review* 30, no. 2 (January 1997): 535. Examines the number of times the state may retry a defendant whom it has been unable to convict. Proposes giving courts discretion to bar reprosecution after one or more trials that result in a hung jury.

Block, Walter, "Road Socialism," *International Journal of Value-Based Management* 9 (1996): 195–207. Road socialists maintain that government is the best manager for the nation's vehicular transportation arteries. Contrary to their views, Block maintains that the managerial role can best be fulfilled by private entrepreneurs. Under highway privatization, traffic fatalities and automobile congestion will be sharply reduced.

———, "O.J.'s Defense: A Reductio Ad Absurdum of the Economics of Coase and Posner," *European Journal of Law and Economics* 3 (1996): 265–86. In a reductio ad absurdum, applies the tenets of the Chicago law-and-economics tradition as adumbrated by two

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of its most distinguished practitioners, Coase and Posner. Shows that on the basis of this canon, a case can be made for freeing O.J. Simpson, even if he did indeed kill his wife. Argues that the libertarian reliance on personal- and private-property rights is a much more robust thesis than the Chicago precept of wealth maximization.

———, **"The Mishnah and Jewish Dirigisme,"** *International Journal of Social Economics* 23, no. 2 (1996): 35–44. Jews are disproportionately liberals and leftists. Milton Friedman previously posed two explanations for this phenomenon: accidental circumstances of nineteenth-century Europe, and "subconscious attempts by Jews to demonstrate to themselves and the world the fallacy of the anti-Semitic stereotype" (i.e. that they are not cold-hearted, concerned with financial exploitation, etc.). Block accepts these explanations, but places lesser weight on the second than Friedman does. Block also adopts two explanations that Friedman rejects: special forces that seem to operate on intellectuals, and the bias of Judaic law towards coercive socialism.

Cassell, Paul G., "*Miranda*'s Social Costs: An Empirical Reassessment," *Northwestern University Law Review* 90 (1996): 387. Assesses the evidence available on how many confessions police never obtain because of *Miranda*. This evidence "suggests that each year *Miranda* results in lost cases against roughly 28,000 serious violent offenders and 79,000 property offenders and in plea bargains to reduced charges in almost the same number of cases." Concludes that those costs "are unacceptably high, particularly because alternatives such as videotaping of police interrogations can more effectively prevent coercion while reducing *Miranda*'s harms to society."

Cooter, Robert D., "Decentralized Law for a Complex Economy: The Structural Approach to Adjudicating the New Law Merchant" [in "Symposium: Law, Economics, & Norms"], *University of Pennsylvania Law Review* 144 (May 1996): 1643–96. Develops an account of decentralized law, which percolates up from the bottom, as opposed to centralized law, which is imposed from above. The justification for centralized law is based on "market failure" in the incentive structure of social norms. Uses game theory and other concepts to characterize conditions under which fair and efficient norms will evolve, and shows how judges and other lawmakers can use this information.

Corbett, Krystilyn, Note, "The Rise of Private Property Rights in the Broadcast Spectrum," *Duke Law Journal* 46, no. 3 (December 1996): 611–50. In the U.S., the Telecommunications Act of 1996

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treats broadcasters partially as market participants with private-property rights in airwaves (the electromagnetic spectrum) and partially as public trustees who use the airwaves for public benefit. The article explores how the private-property conception has come to dominate the public-ownership conception of airwave ownership. Also discusses how, for example, stronger private-property rights in the broadcast spectrum have made First Amendment law more consistent, and spectrum use more efficient.

Covey, Russell Dean, Note, "Adventures in the Zone of Twilight: Separation of Powers and National Economic Security in the Mexican Bailout," *Yale Law Journal* 105, no. 5 (March 1996): 1311. Focuses on the 1995 multi-billion-dollar bailout of Mexico, which was arranged by unilateral negotiation of loans by President Clinton from international institutions like the International Monetary Fund, and by a promise by Clinton of $20 billion from the Exchange Stabilization Fund, a Treasury fund normally used to "stabilize" the dollar on world currency markets. Argues that the package was only incidentally an act of "currency stabilization," and is more accurately described as an emergency grant of foreign aid, which is not authorized by U.S. law. Covey proposes federal legislation that creates, and limits, presidential "emergency" power to intervene in such crises.

Duane, James Joseph, "Jury Nullification: The Top Secret Constitutional Right," *Litigation* 22, no. 4 (Summer 1996): 6–14, 59–60. Explains American constitutional right of juries to nullify unjust laws. Defends jury nullification against several popular, contemporary arguments. Argues that jurors should be instructed that they should convict anyone proven guilty beyond a reasonable doubt, unless they have a firm belief that a conviction would be fundamentally unjust.

Ellickson, Robert C., "Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning," *Yale Law Journal* 105, no. 5 (March 1996): 1165–1248. During the 1980s, panhandling, bench squatting, and other disorderly behavior became increasingly common in the downtown public spaces of American cities. An individual who chronically interferes with the correlative liberties of other pedestrians causes significant public harms, leading to many cities tightening their controls on panhandling and other street misconduct. Ellickson criticizes judges who have thwarted these cities' efforts. (Criticized in **Stephen R. Munzer, "Ellickson on 'Chronic Misconduct' in Urban Spaces: Of Panhandlers, Bench Squatters, and Day**

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Laborers," *Harvard Civil Rights-Civil Liberties Law Review* 32 (1997): 1–10.)

Epstein, Richard A., "Constitutional Faith and the Commerce Clause," *Notre Dame Law Review* 71 (1996): 167. Discusses the Commerce Clause of the Constitution and the recent Supreme Court case *United States v. Lopez*, which overruled a federal law purporting to regulate firearm possession in a school zone. Endorses Clarence Thomas's criticism of past Commerce Clause cases, and advocates overruling all the problematic cases and returning to the original 1787 conception of the Commerce Clause and the limited powers it gave the federal government. [See Wille, 1996, below.]

———, "The Tort/Crime Distinction: A Generation Later" [in "Symposium: The Intersection of Tort and Criminal Law], *Boston University Law Review* 76 (February/April 1996): 1. Explores the distinction between criminal law and tort law, which governs non-intentional violations of others' rights. Discusses the reason that deliberate or intentional harms are governed by criminal law, i.e. public control. Argues that the domain of both tort and crime should be reduced. [See Barnett, 1996, above.]

Gardbaum, Stephen, "Rethinking Constitutional Federalism," *Texas Law Review* 74 (1996): 795–838. Detailed discussion of various conceptions of federalism. Presents a "third" model of federalism which holds that just because Congress is given power to legislate in a given area, this does not necessarily mean that it may preempt or override state control or laws in this area, as has been traditionally thought. Under this model, jurisdiction need not be exclusive; states and Congress may concurrently share power in some areas. In particular, Congress's power of preemption and the power to regulate local activities affecting interstate commerce should be constrained by this approach. This is because these powers are based not in the Supremacy Clause and Commerce Clause, but in the Necessary and Proper clause, which places limits on how Congressional power may be exercised.

Garrett, Elizabeth, "Term Limitations and the Myth of the Citizen-Legislator," *Cornell Law Review* 81 (1996): 623. Adoption of term limits will not eliminate professional politicians. Also discusses how term limits would likely affect the seniority system and special interest groups' relationships with legislators.

Hardy, Trotter, "Property (and Copyright) in Cyberspace," *University of Chicago Legal Forum* (1996): 217. Discusses how property rights, such as copyright, should be applied in cyberspace.

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Examines property theory generally and from an economic approach, and applies the Calabresi and Melamed approach to property to the protection of informational works in cyberspace. Analogizes property rights in informational works to property rights in tracts of land. Advocates a regime of private property in cyberspace.

Katz, Avery Wiener, "Positivism and the Separation of Law and Economics," *Michigan Law Review* 94 (June 1996): 2229–69. Modern economics adheres to positivism: the view that fact and value can be distinguished from one another. Economics can be used to provide better understanding of factual/descriptive issues, which should help to resolve or clarify normative disagreements. However, critics of the law-and-economics paradigm are skeptical of this approach. One reason for this misunderstanding is that lawyers and economists view positivism differently. Katz explores the differences between classic legal positivism, logical positivism, and law-and-economics-type positivism which simply logically separates is-statements from ought-statements. Argues that one's opinion of the worth of economic analysis to lawyers depends on one's view of the merits of positivism in law. H.L.A.-type legal positivists will favor the law-and-economics approach; Lon Fuller's "natural law" position is opposed to the law-and-economics perspective.

Kinsella, N. Stephan, "A Libertarian Theory of Punishment and Rights," *Loyola Los Angeles Law Review* 30, no. 2 (Jan. 1997): 607–45. Develops retributionist or *lex talionis* theory of punishment and related principles of proportionality, which defines a theory of rights. An aggressor cannot coherently object to punishment for an act of aggression since an objection would require the aggressor to adopt the position that the infliction of force is wrong, which is contradictory since the aggressor initiated force. Thus, aggressors may be punished in a manner proportionate to the aggressors' initiation of force since the aggressor is dialogically "estopped" from denying the legitimacy of being punished.

Klarman, Michael J., "Rethinking the Civil Rights and Civil Liberties Revolutions," *Virginia Law Review* 82 (February 1996): 1. The Supreme Court's capacity to protect minority rights is more limited than is usually assumed. Instead of protecting minority rights from oppressive majorities, the Court usually (a) takes a strong national consensus and imposes it on isolated dissenters; or (b) resolves a divisive issue that alienates half the population. Neither role protects the minority from the majority. The myth of the Court as counter-majoritarian savior

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should be examined to identify how judicial review actually operates.

Klein, Daniel B. and Chi Yin, "Use, Esteem, and Profit in Voluntary Provision: Toll Roads in California, 1850–1902," *Economic Inquiry* 34 (October 1996): 678–92. Early Californians took stock in toll roads for a variety of reasons: use of the road, esteem of fellows, and profits from stock. Whatever the motivation, in operation all toll road companies felt the profit motive. This paper presents a historical survey of voluntary organizations taking the stock-corporation form. These cases demonstrate how various motivations and incentives intermingled and supported one another in the days before the corporation was legally bifurcated into either "for-profit" or "not-for-profit" enterprise.

Kreshek, Bradley H., Comment, "Students or Serfs? Is Mandatory Community Service a Violation of the Thirteenth Amendment," *Loyola Los Angeles Law Review* 30, no. 2 (January 1997): 607–45. The Thirteenth Amendment prohibits involuntary servitude, i.e. slavery. Concludes that mandatory community service programs are contrary to the spirit of the Thirteenth Amendment and should be held unconstitutional.

Krotoszynski Jr., Ronald J., "Fundamental Property Rights," *Georgetown Law Journal* 85, no. 3 (February 1997): 555–625. The U.S. Supreme Court's modern "substantive due process" jurisprudence protects "fundamental" liberty interests from government abridgment absent a "compelling" governmental interest. This strict standard of protection has never been extended to encompass "fundamental" property rights, which are treated like a "poor relation" compared to so-called "liberty" interests. Argues that fundamental property interests, like civil liberties, merit judicial protection from legislation that would unduly burden their enjoyment, and should therefore also be protected by the substantive due process standard.

Landsburg, Steven E., "The Perfect Tax," *Slate* www.slate. com, 10/11/96. Proposes constitutional amendment capping everyone's tax bill at (say) five times the average. This would force many taxpayers to share the cost of any new government spending, and so ensure broad opposition to the growth of government.

Leipold, Andrew D., "Rethinking Jury Nullification," *Virginia Law Review* 82 (March 1996): 253. Jury nullification—the jury's ability to judge the law as well as to judge the defendant, and to acquit even defendants whose guilt is clear—imposes significant costs on the criminal justice system but does not yield substantial

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benefits. It is also doubtful whether the Constitution protects this institution. An affirmative "nullification defense" should be enacted that allows the jury to acquit against the evidence on approved grounds. Error-correcting procedures should also be permitted in criminal cases, such as prosecutor appeals from groundless acquittals.

Lindgren, James, "Why the Ancients May Not Have Needed A System of Criminal Law," *Boston University Law Review* 76 (1996): 29. Some have argued that a criminal system may not be necessary, since a pure tort system, in which wrongdoers pay fines, may be more efficient. However, it is also argued that many defendants are judgment-proof since they are poor, so there is a need for imprisonment and criminal law. In ancient systems, however, people were even poorer, but there were few prisons and more reliance on a tort system. Nevertheless, there was still deterrence, because the ancients had a range of tort penalties available to them—with or without state help or approval—including debt slavery, chattel slavery, killing, beating, mutilation, public disgrace, outlawry, and the blood feud. These brutal penalties under tort schemes meant less need for prisons and criminal law.

Machan, Tibor R., "What is Morally Right with Insider Trading," *Public Affairs Quarterly* 10, no. 2 (April 1996): 135–42. Insider trading is obtaining information from non-public sources and using it for financial gain. It is not immoral to use such information, which may be learned ahead of others by good fortune or by achievement, and can be prudent to do so, when it does not violate others' rights. Insider trading laws rest on the unsound view that others have a right to one's revealing to them information one has honestly obtained ahead of them.

———, "Individualism and Political Dialogue," *Poznan Studies in the Philosophy of Science and the Humanities* 46 (June 1996): 45–55. Exploration of the nature of dialogue presupposes a view that human beings are essentially both individuals and social beings, as opposed to the Marxian idea of "specie-being." Arguments are a type of creative activity that thus presuppose individualism. Arguments that deny individuality fail to make room for the individuality behind arguments. The prerequisite for dialogue, including "political dialogue" or democratic decision-making, is not welfare rights as espoused by Jürgen Habermas but the negative rights of libertarianism, which are needed in order to facilitate democratic discourse.

Mayer, David N., "Justice Clarence Thomas and the Supreme

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Court's Rediscovery of the Tenth Amendment," *Capital University Law Review* 25 (1996): 339–423. The prevailing interpretation of the Tenth Amendment as a guarantee of only federalism is mistaken. Rather than being only about "states' rights," the Tenth Amendment was originally meant to provide a rule of strict construction of federal powers. Hence, Thomas Jefferson's characterization in 1791 of the Amendment as the "foundation" of the Constitution is essentially correct. Further, Justice Thomas is the justice on the Court today who best understands (and perhaps the only justice who fully understands) the meaning of the Tenth Amendment, as his concurring opinion in *Lopez* and his dissenting opinion in *U.S. Term Limits* show. Provides the first comprehensive history of the Tenth Amendment to be published in a law review, and analyzes Thomas's opinions and jurisprudence.

McAffee, Thomas B., "A Critical Guide to the Ninth Amendment," *Temple Law Review* 69 (1996): 61–94. Summarizes the debate regarding the Ninth Amendment to the U.S. Constitution, such as whether the Ninth Amendment should be used to apply unenumerated or natural rights to legislation.

McGee, Robert W., "Some Tax Advice for Latvia and Other Similarly Situated Emerging Economies," *International Tax and Business Lawyer* 13 (1996): 223. Presents guidelines for the construction of a tax system in emerging economies. Considers both the economics and ethics of taxation from a hard-core libertarian perspective, and criticizes systems such as the U.S. income tax. Guidelines recommend noncoercive revenue sources such as lotteries and user fees be resorted to first, and that public spending be reduced. For coercive taxation, the cost-benefit view is morally and economically superior to the "ability to pay" view. Taxes should be visible, not hidden; neutral, not used to encourage or discourage; uniform, not discriminatory; simple, not complex; earmarked for specific purposes, rather than poured into a common fund; and as low as possible, to minimize inevitable distortionary effects. Tax rules should be clear, not vague; and stable, not frequently changed. Also recommends complementary measures such as privatization of social security.

McGinnis, John O., "The Once and Future Property-Based Vision of the First Amendment," *University of Chicago Law Review* 63 (1996): 49. For the last 50 years, the right of free speech in the First Amendment has been seen as the supreme right, and has been expanded due to two fairly recent theories. First, free speech supposedly guarantees political discourse, enabling collective democratic processes to perpetually revise economic

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societal arrangements. Second, even nonpolitical speech was understood to provide a personal sphere of autonomy distinguishable from regulated "commercial speech." These foundations are collapsing with the decline in confidence in centralized planning, and with the rise in importance and recognition of information as facilitating economic activity. Thus, the left is becoming more willing to regulate speech and the right less. McGinnis explains the First Amendment's true origins as a Madisonian property right of the individual, to provide a model for an emerging laissez-faire jurisprudence.

Pilon, Roger, "Discrimination, Affirmative Action, and Freedom: Sorting Out the Issues," *American University Law Review* 45 (1996): 775–90. If private individuals and institutions are to be free and sovereign, they must have a right to discriminate in favor of or against other private individuals or institutions, for any reason, good or bad, or for no reason at all. By contrast, public officials may not discriminate except on grounds that are narrowly tailored to serve the functions for which they were elected, appointed, or created in the first place. Explores how the Civil Rights Act of 1964 prohibited forced racial segregation, and how this has evolved into affirmative action and prohibitions on even private discrimination.

———, "A Court without a Compass," *New York Law School Law Review* 40 (1996): 999–1011. Part of a dialogue on *The Center Holds: The Power Struggle Inside the Rehnquist Court*, a recent book on constitutional law by James Simon. Discusses the roots of modern constitutional law and how and why the Constitution has been politicized and misinterpreted to secure the foundations for the modern welfare state. For example, the Court has broadly construed the Commerce Clause and eviscerated the doctrine of enumerated powers, and has limited the scope of rights protection for property- and commerce-related rights. Under proper judicial review of legislation, the court should first ask whether a power was granted to Congress to enact the law; if so, whether the means employed both "necessary and proper"; if so, whether the measure violate either enumerated or unenumerated rights. Justice Clarence Thomas offers some promise of helping to move constitutional jurisprudence in the right direction.

Rose, Carol M., "Property as the Keystone Right?" *Notre Dame Law Review* 71 (1996): 329. The crucial role of property rights in the generation of wealth is gaining greater appreciation in the West and in the developing world, but property rights are still largely seen as "mere" economic rights that take a back seat to

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more "fundamental" rights in terms of political importance. Yet, Adam Smith and others contended that property rights are not poor cousins to other rights, not even merely equally important to other rights, but the most important of all rights, the linchpin, the pivot, the central right on which all others turn—the "guardian of every other right." Rose explores seven permutations of this basic claim, along with the caveats and critiques that they raise. Rose argues that property only has a modest claim to being a keystone right, as an educative institution, "the gentle and somewhat fragile persuader, rewarding the character traits needed not only for commerce but also for self-government."

Seto, Theodore P., "Drafting a Federal Balanced Budget Amendment That Does What It Is Supposed to Do (And No More)," *Yale Law Journal* 106 (March 1997): 1449. Proposals for a constitutional amendment to require a balanced federal budget have received little technical review. Discusses various problems facing those who wish to draft an effective balanced budget amendment, such as problems concerning defining a budgetary target, how to impose a remedy when Congress fails to comply with such targets, use of debt-ceiling limitations for this purpose, etc.

Sherry, Suzanna, "The Sleep of Reason," *Georgetown Law Journal* 84 (1996): 453–84. During the Enlightenment, reason replaced faith as the guiding epistemology, and even religion became largely "rational" in response, and the antirational kind of religiosity gradually diminished. Yet, in an odd coupling, both radicals on the left and conservative religionists on the right are attacking the Enlightenment tradition. The former—critical legal scholars, radical feminists, critical race theorists, and gay and lesbian theorists—attributed Enlightenment epistemology to powerful straight white men, and argued for epistemological pluralism or relativism. Conservative scholars recently similarly argue that enlightenment reason is just one of a number of alternative epistemologies, not superior to faith and revelation. Both left radicals and religionists use their epistemological critique of the Enlightenment to advocate legal change. Sherry argues for Enlightenment and its reason-oriented epistemology. [See Zapf, 1996, below.]

Shivakumar, Dhananjai, Note, "The Pure Theory as Ideal Type: Defending Kelsen on the Basis of Weberian Methodology," *Yale Law Journal* 105, no. 5 (March 1996): 1383–1414. Provides overview of Hans Kelsen's "pure theory of law" and his analysis of legal systems. Attempts a theoretical reconciliation of Kelsen's pure theory with Weberian methodology, and defends as success-

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ful ideal types two fundamental components of Kelsen's pure theory: his analysis of legal norms (static legal theory) and his analysis of legal validity (dynamic legal theory). An emphasis on the instrumental usefulness of his concept of law makes Kelsen's theory more attractive than other theories of law.

Stacy, Tom, "Does Federalism Promote Liberty?" *Kansas Journal of Law and Public Policy* 5, no. 3 (Spring 1996): 15–20. Outlines a framework for evaluating the competing claims about whether and how the allocation of authority between state and national governments promotes liberty. Concludes that the question has no clear, categorical answer, because the answer turns on the meaning that one assigns to the meaning of liberty and the relative importance of structural checks in advancing one's conception of liberty.

Steele, David Ramsay, "Nozick on Sunk Costs," *Ethics* 106 (April 1996): 605–20. Robert Nozick has argued that the economic doctrine of sunk costs is untenable. Steele argues that Nozick's criticisms fail and that the economists' doctrine emerges unscathed.

Wille, David G., "The Commerce Clause: A Time for Reevaluation," *Tulane Law Review* 70 (March 1996): 1069–96. Current Supreme Court interpretation of the Constitution's "Commerce Clause" contradicts the text of the Commerce Clause and the scope given to other enumerated powers under Article I. It also upsets the balances of power between the federal and state governments embodied in the constitutional structure. The Court has erred in interpreting the Necessary and Proper Clause and in giving deference to congressional judgments of jurisdiction under the Commerce Clause. The Court should scrutinize such assumptions of jurisdiction, and should resume its role in preventing Congress from exercising powers not entrusted to it under the Constitution. [See Epstein, 1996 ("Constitutional Faith"), above.]

Zapf, Christian and Eben Moglen, "Linguistic Indeterminacy and the Rule of Law: On the Perils of Misunderstanding Wittgenstein," *Georgetown Law Journal* 84 (1996): 485–520. Under the traditional understanding of the Rule of Law, precedent uniquely determines the outcome of legal cases. Skeptics such as Critical Legal Scholars and their intellectual ancestors, the Legal Realists, attack this conception, argueing that law is indeterminate in outcome, and thus, the supposed constraints of the Rule of Law are fictions. Some of this skepticism relies on linguistic indeterminacy, which maintains that a "consensus of an interpretive community" is needed to determine how a word should be ap-

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plied; the application of words cannot be "read off" from those words in a straightforward way. The authors attempt to refute the linguistic indeterminacy argument, in part drawing on Wittgenstein's philosophical work. [See Sherry, 1996, above.]

Zywicki, Todd J., "A Unanimity-Reinforcing Model of Efficiency in the Common Law: An Institutional Comparison of Common Law and Legislative Solutions to Large Number Externality Problems," *Case Western Reserve Law Review* 46 (1996): 961. Conventional wisdom holds that legislation is often adopted when the common law fails, for example with respect to externalities such as pollution, or when there are high transaction costs. However, this misunderstands the common-law process, which is actually applicable in many areas where it has been ignored. Develops a unanimity-reinforcing model of the common law which challenges the presumption favoring legislation to correct externality problems. Suggests that the common law is superior to legislation in many circumstances traditionally thought to require legislative intervention.

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